To hold oversight hearings on the implementation of the Freedom of Information Act.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To hold hearings on drug quality, competition and government procurement of drugs.
1318 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Separation of Powers
To receive testimony on certain executive agreements associated with the proposed Panama Canal Treaties.
1114 Dirksen Building
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To hold hearings on drug quality, competition and government procurement of drugs.
1318 Dirksen Building

NOVEMBER 16

10:00 a.m.
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To hold hearings on drug quality, competition and government procurement of drugs.
1318 Dirksen Building

NOVEMBER 17

8:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of R. David Pittle, of Maryland, to be a Member of the Consumer Product Safety Commission.
5110 Dirksen Building

NOVEMBER 22

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. 1900, to clarify the treatment of banks and other depository institutions under State and local revenue laws.
5302 Dirksen Building

NOVEMBER 28

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2266, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 29

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2266, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 30

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2266, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 15

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee.
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

# SENATE—*Thursday, November 3, 1977*

*(Legislative day of Tuesday, November 1, 1977)*

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Creator and Redeemer, we rejoice that according to Thy word "Day unto day uttereth speech, and night unto night showeth knowledge." Thou dost speak to us by sights and sounds and silences and in the movement of history. Keep us sensitive to Thy spirit and alert to Thy voice lest we miss Thy message for our time. May the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O Lord our Strength and our Redeemer. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., November 3, 1977.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, November 2, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## PRESIDENT CARTER'S MIDDLE EAST POLICY

Mr. ROBERT C. BYRD. Mr. President, bringing the various parties in the Middle East together is an exceedingly difficult and complex undertaking. Yet, the Carter administration is persevering in its endeavors to bring about the negotiations which could lead to a just and lasting peace in that troubled region.

This is a matter where the intensity of feelings is such that each word must be measured. Mutual suspicions run high. Yet, despite these difficulties and the fact that critical questions related to the negotiations remain unresolved, important steps have been taken.

We may find ourselves in disagreement with certain pronouncements which have been made by the administration. But the important factor is that President Carter is making a genuine and vital effort to establish a framework for negotiations at a reconvened Geneva conference.

I believe the President's policy, as reiterated in his positive and forceful address to the World Jewish Congress Wednesday night, is deserving of support.

As the President stated, this may be the best opportunity for a permanent Middle East peace settlement in our lifetime. We must not let it slip away. Partisanship should not prevail. We need careful and thoughtful consideration and discussion.

The President believes that serious face-to-face negotiations about real peace are within reach. Recently, Israel Foreign Minister Moshe Dayan said that his country very much wants to go to Geneva. Dayan said,

I myself think that we never had a better time to get peace.

Of course any consideration of our Middle East policy begins with recognition of our steadfast commitment to Israel. Earlier this year, Vice President MONDALE referred to our support of Israel as a "moral imperative." Last night,

President Carter spoke of our "unique relationship" with Israel.

There can be no question of this commitment, which is without parallel. Israel remains the largest recipient of American foreign assistance and has received $10 billion in military and economic aid from the United States since 1973, mostly in the form of direct grants or concessional loans. The President has pledged that such aid will continue and there should be no doubt as to the unwavering support in the Senate for the assistance necessary for Israel to maintain its military security.

What we should hope to achieve, and what the President is striving for, is real security for Israel. The continued emphasis on military security in Israel—as well as in other Middle East nations—inevitably diverts attention and resources from economic and social needs. High inflation, and high taxes and labor disruptions are among the more obvious results. We all look forward to the day when the people of Israel can live in peace and can more fully apply their great talents and energies toward further developing a nation that already stands as a model for economic development and political liberty.

A key element of any peace settlement, and one that has been stressed by President Carter, is agreement on recognized and secure borders.

Such an agreement would be consistent with United Nations Security Council Resolution 242 of 1967, which should serve as a basis for negotiations. That resolution provides for the termination of all claims of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area and their right to live in peace within secure and recognized borders.

The continuing refusal of the Palestine Liberation Organization to accept U.N. Resolution 242 and Israel's right to exist constitutes an obvious obstacle to the achievement of peace.

In his speech to the World Jewish Congress, President Carter pointed out some of the other problems which remain, including the establishment by Israel of civilian settlements in territories currently under occupation.

Critical to the success of the negotiations is a resolution of the difficult and tragic Palestinian question. I would agree with the administration's position that the specific nature of the resolution of this as well as other important substantive issues must be decided by the parties themselves in the course of negotiations.

The acceptance by Israel of a unified Arab delegation, including Palestinians, at Geneva is an important accomplishment. Likewise, Israel has indicated its willingness to enter the negotiations without preconditions and with all issues negotiable. Such an approach on the part of all parties is essential to successful talks.

Mr. President, it is imperative that we do all we can to help achieve a just and lasting peace in the Middle East. The administration will continue with its efforts to convene a Geneva Conference, which would provide the forum for the Middle East nations to work out a settlement in face-to-face negotiations. I support President Carter in his continuing effort to promote the process of negotiations.

I ask unanimous consent that the President's address delivered to the World Jewish Congress last evening be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF THE PRESIDENT TO THE WORLD JEWISH CONGRESS

I am deeply honored to receive this award. I accept it with a special sense of gratitude because of the organization from which it comes and the man for whom it is named.

For more than half a century Nahum Goldmann has been a scholar and political leader and a fighter for the rights of all people. His career is proof that a man who is outspoken and controversial can still be a brilliant and effective statesman. As the head of this organization and many others, he has played a more significant role in world affairs than many heads of state. He is stepping down from the presidency of the World Jewish Congress, but his presence will remain, for he is the kind of man whose moral authority transcends titles or offices.

The World Jewish Congress has always sought to promote human rights in a universal way. In this it is faithful to the ethical tradition from which it springs. For Jewish teaching helped to create the consciousness of human rights that is, I believe, now growing everywhere on earth.

In large measure, the beginnings of our modern conceptions of human rights go back to the laws and the prophets of the Judeo-Christian tradition. I have been steeped in the Bible since early childhood. And I believe that anyone who reads the ancient words of the Old Testament with sensitivity and care will find there the idea of government as something that is based on a voluntary covenant rather than force—the idea of equality before the law and the supremacy of law over the whims of rulers—the idea of the dignity of the individual human being and the individual conscience—the idea of service to the poor and oppressed the ideas of self-government and tolerance and of nations living together in peace despite differences of belief.

I know also that the memory of Jewish persecution and suffering lends a special quality to your commitment to human rights. This organization made a major contribution to insuring that human rights became part of the Charter of the United Nations as one of its three basic purposes, along with the preservation of the peace and social and economic progress. The principal authors of the Universal Declaration of Human Rights were Eleanor Roosevelt, an American Protestant, Charles Malik, a Lebanese Catholic. and Rene Cassin, a French Jew.

Because of their work and the work of others since, no government can pretend that its mistreatment of its own citizens is solely an internal affair. These accomplishments helped start a process by which governments can be moved toward exemplifying the ideals they have publicly professed.

Our actions in the field of human rights must vary according to the appropriateness and effectiveness of one kind of action or another, but our judgments must be made according to a single standard. Oppression is reprehensible, whether its victims are blacks in South Africa or American Indians in the Western Hemisphere or Jews in the Soviet Union or dissenters in Chile or Czechoslovakia.

The public demonstration of our commitment to human rights is one of the major goals that my administration has set for U.S. foreign policy. This emphasis on human rights has raised the level of consciousness around the world and is already helping to overcome the crisis of the spirit which has lately afflicted the West.

We are also trying to build a more cooperative international system. We have consulted closely with our allies, placed relations on a new footing in Africa, Asia, and Latin America, and searched for new areas of cooperation with the Soviet Union, especially in the area where we and the Soviets now most intensely compete—in the race for nuclear weapons. We must halt that race. At the same time we seek cooperation, we recognize that competition is also a fact of international life and we will remain capable of defending the legitimate interests of our people.

We are addressing other global problems which threaten the well-being and security of people everywhere. These include nuclear proliferation, transfers of conventional arms, and the questions of energy, food, and environment which face all nations of the world.

We are also seeking solutions to regional conflicts that can do incalculable damage if not resolved. Our efforts toward a new treaty with Panama are one example; bringing about peaceful change in Southern Africa is another. But none is more important than finding peace in the Middle East.

Sixty years ago today, November 2, 1917, the British Foreign Secretary, Lord Balfour, informed Lord Rothschild of his government's support for the establishment of a national home for the Jewish people in Palestine. At that time, the idea seemed visionary and few dared to believe that it could be translated into reality. But today Israel is a vital force, an independent and democratic Jewish state, whose national existence is accepted and whose security is stronger than ever before. We are proud to be Israel's firm friend and closest partner—and we shall stand by Israel always.

Despite its great accomplishments, however, Israel has yet to realize the cherished goal of living in peace with its neighbors. Some would say that peace cannot be achieved because of the accumulated mistrust and the deep emotions dividing Israelis and Arabs. Some would say that we must realistically resign ourselves to the prospect of unending struggle and conflict in the Middle East.

With such an attitude of resignation, Israel would never have been created, and with such an attitude peace would not be achieved. What is needed is both vision and realism, so that strong leadership can transform the hostility of the past into a peaceful and constructive future. This was the vision of the Zionist movement in the first generation after the Balfour Declaration; it can be the achievement of Israel in its second generation as an independent state.

Since becoming President, I have spent much of my time in trying to promote a peace settlement between Israel and her Arab neighbors. All Americans know that peace in the Middle East is of vital concern for our own country. We cannot merely be idle bystanders. Our friendships and our interests require that we continue to devote ourselves to the cause of peace in this most dangerous region of the world.

Earlier this year, I outlined the elements of a comprehensive peace, not in order to impose our views on the parties, but rather as a way of defining some of the elements of an overall settlement which would have to be achieved through detailed negotiations.

I continue to believe that the three key issues are: first, the obligations of peace, including the full normalization of political, economic and cultural relations; second, the establishment of effective security measures, coupled to Israeli withdrawal from occupied territories and agreement on final, recognized and secure borders; and, third, a resolution of the Palestinian question. Those questions are interrelated in complex ways, and

for peace to be achieved, all will have to be resolved.

Recently, our diplomatic efforts have focused on establishing a framework for negotiations so that the parties themselves will become engaged in the resolution of the many substantive issues that have divided them for so long. We can offer our good offices as mediators. We can make suggestions, but we cannot do the negotiating.

For serious peace talks to begin, a reconvening of the Geneva Conference has become essential. All the parties have accepted the idea of comprehensive negotiations at Geneva, and agreement has been reached on several important procedural arrangements.

Israel has accepted for Geneva the idea of a unified Arab delegation which will include Palestinians, and has agreed to discuss the future of the West Bank and Gaza with Jordan, Egypt and the Palestinian Arabs. This can provide the means for the Palestinian voice to be heard in the shaping of a Middle East peace, and this represents a positive and constructive step. Israel has also repeated its willingness to negotiate without preconditions, and has stressed that all issues are negotiable, an attitude that others must accept if peace talks are to succeed.

For their part, the Arab states involved have accepted Israel's status as a nation. They are increasingly willing to work toward peace treaties, and to form individual working groups to negotiate settlement of border and other disputes. No longer do they refuse to sit down at the negotiating table with Israel, nor do they dispute Israel's right to live within secure and recognized borders. That must be taken as a measure of how far we have come from the intransigent positions of the past.

The procedural agreements hammered out in 1973 at the first Geneva Conference will be a good basis for the reconvened conference.

Even a year ago the notion of Israelis and Arabs engaging in face-to-face negotiations about real peace, a peace embodied in binding treaties, seemed illusory. Yet today such negotiations are within reach—and I am proud of the progress that has been achieved to make this dream possible.

But to improve the atmosphere for serious negotiations, mutual suspicions must be further reduced. One source of Arab concern about Israeli intentions has been the establishment of civilian settlements in territories currently under occupation, which we consider to be in violation of the Fourth Geneva Convention.

On the Arab side, much still needs to be done to remove the suspicions that exist in Israel about Arab intentions. It was not so long ago, after all, that Arab demands were often expressed in extreme and sometimes violent ways. Israel's existence was constantly called into question. The continuing refusal of the Palestine Liberation Organization to accept UN Resolution 242 and Israel's right to exist, along with the resort to violence and terror by some groups, provides Israelis with tangible evidence that their worst fears may in fact be justified.

Differences naturally persist, not only between Arabs and Israelis, but among the Arab parties themselves. We are actively engaged in an effort to narrow these differences so that Geneva can be reconvened, and we have called on the other co-chairman of the Geneva Conference, the Soviet Union, to use its influence constructively.

We will continue to encourage a constructive solution to the Palestinian question in a framework which does not threaten the interests of any of the concerned parties, yet respects the legitimate rights of the Palestinians. The nations involved must negotiate the settlement, but we ourselves do not prefer an independent Palestinian state on the West Bank.

Negotiations will no doubt be prolonged and often difficult. But we are in this to stay. I will personally be prepared to use the influence of the United States to help the negotiations succeed. We will not impose our will on any party, but we will constantly encourage and try to assist the process of conciliation.

Our relations with Israel will remain strong. Since 1973, we have provided $10 billion in military and economic aid to Israel, of which more than two-thirds was in the form of direct grants or concessional loans. The magnitude of this assistance is without parallel in history. It has greatly enhanced Israel's economic health and her military strength. Our aid will continue.

As difficult as peace through negotiations will be in the Middle East, the alternative of stalemate and conflict is infinitely worse. The costs of another war would be staggering, in both human and economic terms. Peace, by contrast, offers great hope to the peoples of the Middle East who have already contributed so much to civilization. Peace—which must include a permanent and secure Jewish State of Israel—has a compelling logic for the Middle East. It could begin to bring Arabs and Israelis together in creative ways to produce a prosperous and stable region. The prospect of coexistence and of cooperation could revive the spirits of those who have for so long thought only of violence and the struggle for survival. Peace would lift the enormous burdens of defense, and uplift the people's quality of life.

The idea of peace in the Middle East is no more of a dream today than was the idea of a national home for the Jewish people in 1917. But it will require the same dedication that made Israel a reality and has allowed it to grow and prosper.

We may be facing now the best opportunity for a permanent Middle East peace settlement in our lifetime. We must not let it slip away. Well meaning leaders in Israel, in the Arab nations, and indeed throughout the world are making an unprecedented and concerted effort to resolve deep-seated differences in the Middle East. This is not a time for intemperance or partisanship. It is a time for strong and responsible leadership and a willingness to explore carefully and thoughtfully the intentions of others.

It is a time to use the mutual strength and the unique partnership between Israel and the United States—and the influence of you and others who have a deep interest and concern—to guarantee a strong and permanently secure Israel—at peace with her neighbors, and able to contribute her tremendous resources toward the realization of human rights and a better and more peaceful life throughout the world.

The Old Testament offers a vision of what that kind of peace might mean in its deepest sense. I leave you with these lines of Micah—lines to which no summary or paraphrase could possibly do justice:

"But in the last days it shall come to pass, that the mountain of the house of the Lord shall be established in the top of the mountains, and it shall be exalted above the hills; and people shall flow unto it.

"And many nations shall come, and say, Come, and let us go up to the mountain of the Lord, and to the house of the God of Jacob; and he will teach us of his ways, and we will walk in his paths; for the law shall go forth of Zion, and the word of the Lord from Jerusalem.

"And he shall judge among many people, and rebuke strong nations afar off; and they shall beat their swords into plowshares, and their spears into pruninghooks; nation shall not lift up a sword against nation, neither shall they learn war any more.

"But they shall sit every man under his vine and under his fig tree; and none shall make them afraid: for the mouth of the Lord of hosts hath spoken it.

"For all people will walk every one in the name of his god, and we will walk in the name of the Lord our God for ever and ever."

However we may falter—however difficult the path—it is our duty to walk together toward the fulfillment of that majestic prophesy.

## SENATE SCHEDULE FROM NOVEMBER 3, 1977, TO SINE DIE ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, the minority leader and I have conferred on the Senate schedule for the remainder of the session.

The schedule we have agreed upon is as follows:

SENATE SCHEDULE FROM NOVEMBER 3, 1977, TO SINE DIE ADJOURNMENT

Today the Senate will continue consideration of the social security bill, H.R. 9346. If final action on that bill is completed today, the Senate will meet tomorrow, Friday, November 4, 1977, to consider other measures which are cleared for action and there will be no Saturday session. If final action on the social security bill is not completed today, the Senate will meet early tomorrow to continue its consideration, and if final action has not occurred by the close of business on Friday, the Senate will meet on Saturday in an attempt to conclude its action.

At the conclusion of Senate business this week, whenever that occurs, the Senate will recess until 10 a.m. Tuesday, November 8, for a pro forma session. On that day the majority and minority leaders will have 10 minutes each to make announcements respecting the Senate schedule for the ensuing weeks. The Senate will convene again, pro forma, at 10 a.m. on Friday, November 11. The Senate will convene next at 10 a.m. on Tuesday, November 15, in a pro forma session unless on Tuesday, November 8, the leadership has announced otherwise. If final disposition of the social security bill has not occurred prior to the close of business on Saturday, November 5, the Senate will convene on Monday, November 14, to continue consideration of that bill and will continue meeting each day that week until action on the bill is completed. Should the bill not be disposed of, the Senate will convene on Monday, November 28, at 10 a.m. to continue its consideration and will meet thereafter as long as necessary to conclude its deliberation with respect to the bill.

Assuming final action on the social security bill takes place this week, following the session on Tuesday, November 15, the Senate will next meet in a pro forma session at 10 a.m. on Friday, November 18, to be followed by a pro forma session at 10 a.m. on Tuesday, November 22, and next at 10 a.m. on Friday, November 25.

There will be no rollcall votes during the week of Monday, November 7, nor during the week of Monday, November 21. There may be rollcall votes during the week of Monday, November 14, and after the Thanksgiving week, beginning on Monday, November 28.

When the Senate is meeting pro forma on Tuesdays only there may be routine morning business not to exceed 3 minutes during which committees may file

reports, Members may introduce bills or resolutions and enter statements in the RECORD. In addition, during those sessions, nominations of a noncontroversial nature may be acted upon. With respect to noncontroversial nominations which may require rollcall votes and with respect to conference reports which may be controversial or on which rollcall votes are indicated, announcements will be made as much in advance as possible by the leadership to give Members sufficient notice and time to return to Washington for votes.

The leadership does not contemplate adjournment sine die until final action is taken on the five energy conference reports.

The convening date for the second session of the 95th Congress will be January 19, 1978.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining out of my 2 minutes?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield my time to the distinguished assistant minority leader.

## SENATOR BAKER'S ADDRESS TO THE WORLD JEWISH CONGRESS

Mr. STEVENS. Mr. President, I ask unanimous consent to insert into the RECORD a transcript of remarks made by the distinguished minority leader before the World Jewish Congress on Tuesday, November 1, 1977. These are important remarks and they are meaningful remarks that should be kept in mind as we await further clarification of American foreign policy in the Middle East.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF HOWARD H. BAKER, JR., BEFORE THE WORLD JEWISH CONGRESS

Dr. Goldman, Mr. Jacobs, and ladies and gentlemen, you are good to invite me; and I thank you for the opportunity to participate in this significant event here in Washington, and I apologize in advance for rearranging your schedule, but it's necessary as was pointed out a moment ago for me to conclude these remarks and return to the Capitol and to attend a meeting there.

The Congress is in the final throes of its adjournment procedure. Yesterday in the Senate we concluded to pass the last of five parts of the President's energy proposal, and we have sent them to conference now with the House of Representatives.

I think it might be good to begin these remarks by pointing out what I'm sure all of you know or many of you certainly know, and that is that in the American scheme of things, not only do we have the three separate and distinct departments of government, but we have a political system that requires, indeed, it *insists* that there be a political scrutiny, that there be a careful examination of the major aspects of this country's foreign and domestic problems. So, what I'm about to say should be thought about, should be heard, and should be understood in the context of our responsibility in the Congress to hear, to understand, to examine, and to criticize the several aspects of American foreign and domestic problems. And today, what I'd like to do is to discuss some aspects of the foreign policy of the United States as it relates to the interests of the American people in preserving the peace and in maintaining the American commitment to international stability and human dignity. I know that you have a particular interest in the situation in the Middle East and in recent Administration moves that seem to reflect a shift in a policy developed over thirty years by Republican and Democratic Presidents alike.

The formulation of foreign policy in the United States is related first of all to the preservation and enhancement of our national security. We are the most powerful nation in the world. With that power comes responsibility and it is essential to exercise that responsibility in ways that are consonant with America's traditional commitment to freedom and to human decency. There are too many places in the world in which foreign policy is decided by a small group of leaders who make decisions in isolation from the desires and views of their own people. But in the United States, we are obliged to shape our policy in accord with Constitutional processes that are closely related to the democratic dialogue. Foreign policy is not, cannot and should not be conducted in a vacuum. If it is to be an effective instrument of American interests . . . and that must be its ultimate aim . . . it must reflect the aspirations of the American people. In this country those aspirations are determined by the people themselves.

We Americans, some of us or all of us, may sometimes be mistaken in the decisions we choose to make. But, in a democracy, we must take the risk that democracy requires, in permitting the people of this nation to make their judgments on the fundamental matters and issues of great importance to this nation, to this generation and to others. I'm privileged to serve in the United States Congress, in the Senate.

Many years ago my father served in the other body, in the House of Representatives in the Congress. As a young man, he told me once as he agonized over a decision that had to be made on a matter of great national urgency, that his mail and comments from his constituency ran a particular way, and he was concerned about whether that was right or wrong. But, he pointed out to me, and I've always remembered this, that it's the very essence of democracy that we must listen very carefully to what the collective judgment of the people may be. And he summed it up when he said to me—speaking of his constituents and their views—he said, "Son, you can doubt their judgment, but don't you ever doubt their authority."

And so it is in the Congress of the United States. It seems to me that the fundamental, most elementary requirements of a true representative Republic in the implementation of our democratic objectives, is to hear and understand the collective wisdom and the genius of the American people and translate it into an effective government policy. And, it seems to me that during the last 30 years, the American people through five Administrations in the exercise of that genius for self-government in this country have made an authoritative decision that the survival in peace of the State of Israel is in the American interest and in the interest of simple justice.

It is true that in a country with as many interests and objectives as the United States, the making of foreign policy is riddled with complexity. It's also a fact that there are sometimes conflicts among our own objectives. But that shouldn't trouble us. Resolving those conflicts is what policy is about; and it's also what politics is about. I think we should be very clear about the role that politics plays in making foreign policy because it's an important role and it's one of which we should not be ashamed.

Most Americans share certain values and wish to see that they are perpetuated in the international arena. Most Americans are committed to stable international relationships, to orderly change when change is in order, to the reduction of the danger of nuclear war; and most Americans are committed to the survival of a strong and free Israel as a democratic bastion in the Middle East.

Almost all Americans are also committed to the projection of the American ideal of free institutions and human dignity as worthy of emulation. But among 230 million of us, there are bound to be differences of view as to how to achieve those objectives. This is a country of great cultural and geographic diversity, and we are rooted in many ancestries. Irish-Americans, Polish-Americans, Italian-Americans, Jewish-Americans, Greek-Americans, and all of the other hyphenated Americans, can't help but regard foreign policy as part of domestic policy, because so many of us have strong ties to the past that has produced this unique American experiment in self-government. It would be less than honest to say that this diversity does not sometimes complicate the conduct of foreign policy. Different constituencies have different interests, and in a Democracy, those interests must be reckoned with. That's why I have been somewhat disturbed by recent press speculation about a confrontation between the Administration and the American Jewish community, simply because the crisis in the Middle East is of particular interest to Jewish Americans and they make no bones about expressing their opinions on that question. I would be very, very unhappy if American Jews or if any other group of Americans, felt that they were under any pressure to soften their views because they did not happen to be in accord with those of the President of the United States.

I should say, parenthetically, that there are those in the executive branch of government who seriously believe that there is too much congressional "interference" in foreign policy. Those who feel that way apparently believe that the advice in "Advice and Consent" is to be whispered and the consent should be shouted from the rooftops! But I can tell you that those of us who are elected to represent our people have no intention of giving our consent without giving our advice.

It's perhaps unfortunate that the way we make foreign policy is so closely tied to its substance. But, overall, I think the results have been good. For both the President and the Congress must reflect in some degree the views of the American people and in the Middle East, those views are crystal clear. We wish to promote circumstances in which Israel can live at peace with her Arab neighbors. The American people do not wish to impose a peace. We wish the parties to negotiate their own arrangements in their own best interests. The American people expect the President and the Department of State to contribute our presence as mediators, our goodwill and whatever resources we can offer to a solution of the differences between the Arabs and the Israelis.

That has been American policy for thirty years and I believe that is what American policy should continue to be. I do not want to see the United States ever try to buy peace by sacrificing Israel on the altar of American foreign policy. I don't believe for a minute that going to Geneva or to Paris is an end to itself. Going to Geneva will be productive only if the parties to the dispute are ready to engage in a fruitful negotiation. The Geneva Peace Conference can do far more harm than good, if because of pressure from outside forces, the Arabs and Israelis arrive at the scene and then exacerbate their differences.

Geneva was designed as a stop along the road to peace. It would be an enormous tragedy if it turned into another step on the road to war. I submit that we face exactly that risk unless we are extremely careful to lay the groundwork for a meaningful and

mutually agreed on solution before we arrive at Geneva. I am particularly concerned, as a United States Senator, with the dramatic and sudden re-introduction of the Soviet Union into the negotiating process.

Only a painstaking and brilliantly executed series of negotiations between the last Administration and the individual Arab states prevented the growing Soviet power from dominating one of the most strategically important areas in the world.

The relationships Secretary Kissinger established during his tenure in office were a significant factor in the reduction of Soviet influence to a point where it is no longer regarded with trust or respect by any of the major powers in the area.

What possible advantage to the United States can there be in linking an invitation to renewed Soviet influence with the convening of the Geneva Peace Conference? The United States has been, and hopefully, still is, the only power on the world scene in which both parties to the dispute place a considerable degree of trust. But the Administration's new posture has raised doubts as to where it really stands and what it really wants.

The Soviet-American statement changes sharply the direction of American policy in the Middle East dispute. That statement, I am told, was based on an original draft by the Soviets. It reflects in considerable degree, the position of the Arab states as to the nature and shape of an ultimate settlement of the Arab-Israeli dispute. It violates the written agreement between Israel and the United States binding the two parties to consult closely as to any arrangements made in reference to the Geneva Peace Conference. Nowhere in the statement does the Administration and its Soviet partner refer to United Nations Resolution 242, which up to now has been the basis for all negotiations on the Middle East question.

It is that resolution that calls for peaceful negotiations and asserts the right of the State of Israel to exist. Until now, the United States has refused to deal with the so-called PLO because it had rejected 242 as a basis for a peaceful settlement. The Soviet-American letter calls for recognition of "the rights of the Palestinian people"... a code phrase for the establishment of a PLO state on the West Bank and the Gaza Strip.

Yet, this issue and a host of others, is exactly what the dispute is about. It has been the American position in the past, and it should be the American position today, that only the parties themselves must resolve that dispute. We have explicitly rejected an imposed solution, but the joint statement goes a long way to doing just that. The joint statement with the Soviet Union violates on its face agreements made with the government of Israel in September, 1975. When the Israelis withdrew from the Abu Rudeis oil fields in the Sinai under United States pressure, our government and the Israelis signed a memorandum of agreement stating that the United States would not recognize nor negotiate with the PLO until that organization recognized Israel's right to exist and until it accepts Security Council Resolutions 242 and 338. Most important of all, the United States and Israel agreed to consult on all questions relating to the convening of the Geneva Conference and to what governments and what other parties would participate in that conference. The fact is that the Administration failed to consult with Israel before issuing a joint statement with the USSR.

I am deeply troubled by this shift in the Administration's posture because of the uncertainty it rouses in the minds of millions of Americans who are deeply committed to the peaceful survival of Israel. But even more important than the perhaps erroneous assumption that the United States is casting aside the only Democratic state in the Middle East, is the meaning of this statement to the national interest of the United States.

I believe that we must recognize the fact of Soviet power where it exists, that we must negotiate with the Soviet Union to reduce the danger of nuclear war and that we must be prepared to match meaningful concession with meaningful concession. But, I believe even more strongly, that a Soviet presence in the Middle East will endanger the survival of Israel and the stability of the Arab states in the area. The United States cannot afford upheaval along the strategic lifelines of the Middle East. And it is the Soviet Union that has encouraged that upheaval at every opportunity. I can only hope that we have not given up the foreign policy achievements of the last Administration as a bargaining chip in the SALT talks now underway in the same city in which the Administration is pressing for a Middle East peace conference before the end of the year.

My friends, although I support the policy of convening a Geneva peace conference, I believe it should be convened when a meaningful dialogue between the parties is likely. I do not support the convening of a Geneva Peace Conference for the sake of having a peace conference now or in the future. I believe we should know in advance what we are likely to be able to do with that peace conference. I do not think we should play Russian roulette with the future peace of all mankind. I believe, that rather than push for an unrealistic piece of political theatre and arouse expectations that are bound to be disappointed if we do not fully prepare in advance, that the United States should pursue the prospects for peace in the Middle East by continuing the many-sided dialogue between ourselves and the Israelis and Arab Governments. We should go to Geneva only when there is a good reason to go to Geneva, and we should go with the expectation that a framework for peace acceptable to all of those who have interests in the area has been designed and put in place. Geneva must not become a symbol for diplomatic misadventure. The prospects for peace or war in the Middle East are obscure, and we must move with careful deliberation if we are to improve the situation. Movement for the sake of movement alone may well stir up a nest of troubles that certainly would be better left alone.

It is no news to you that we live in dangerous times. And I believe that if the United States is to meet the challenge of its obligation and to fulfill the needs of its security, we must move with care and caution. My friends, I began these remarks by expressing a great faith in the innate genius of Americans to govern themselves; and inherent in that belief and faith is the notion that America makes fundamentally right decisions as it governs itself, that the sovereign genius of the people of the United States has been remarkably right in our history, not because we've always had great leaders—although we've had more than our share—but whether the people have been right or not, they speak in shouts and in whispers and sometimes not at all. But when they do speak we must listen, those of us in government, because while we serve the exquisite balance of powers described in the Constitution, it is the fourth department of government, the political system, that sets out, that translates, and transmits to the government the collective genius of the sovereign of the people themselves. I would remind the Administration and the world that that giant genius of American self-determination is saying now that we want a skillful, cautious foreign policy in the Middle East that is reasonably calculated to serve the best interests of peace and to preserve the existence of the State of Israel.

Well, my friends, I have no apology to make for discussing foreign policy in the political sense; it is politics that is the very essence of the democratic system. Those who are here in this audience, and certainly those in the Congress and throughout the Administration, may agree in part and may disagree in part or disagree altogether with what I've said; but my friends what I have said and what you are doing contributes to the ultimate dialogue by which the people express their judgment; and I would close by reiterating what my father told me years ago about the public, about the electorate; about the genius of America in self-government. Sometimes you may doubt their judgment, but don't you ever doubt their authority.

## FISHERMEN'S PROTECTIVE ACT AMENDMENT

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1184.

The ACTING PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 1184) to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes, as follows:

Strike all after the enacting clause, and insert:

That section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

Amend the title so as to read: "An Act to extend the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen, until October 1, 1978".

UP AMENDMENT NO. 1038

Mr. STEVENS. Mr. President, I move that the Senate concur in the amendments of the House of Representatives, with an amendment which I now send to the desk on behalf of the Senator from Oregon (Mr. PACKWOOD).

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), in behalf of the Senator from Oregon (Mr. PACKWOOD) offers an unprinted amendment numbered 1038.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 2. The Fishermen's Protective Act of 1967, as amended, is further amended by adding the following new section at the end thereof:

"SEC. 10. (a) After July 1, 1977, the Secretary may make a loan to the owner or operator of any vessel of the United States which is documented or certified as a commercial fishing vessel if—

"(1) he receives an application for a loan under this section after such date;

"(2) he reasonably determines that such vessel, or its fishing gear, was lost, damaged, or destroyed by any vessel (or its crew or fishing gear) of a foreign nation operating within the fishery conservation zone established by sections 101 and 102 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811); and

"(3) the amount of such loss, damage, or destruction exceeds $2,000.

Any such loan—

"(A) may be for an amount not exceeding the value of such loss, damage or destruction;

"(B) shall be conditional upon assignment to the Secretary of any right to recover for such loss, damage, or destruction;

"(C) shall bear interest at a rate not to exceed 3½ per centum per annum; and

"(D) shall be subject to such terms and conditions as the Secretary deems necessary and appropriate for the purposes of this section.

The Secretary shall use the Fishermen's Protective Fund created under section 9 for the amounts of any loan made under this section. Loans may be made for any loss, damage, or destruction occurring after July 1, 1976 for which claims are not already substantially resolved.

"(b) The Secretary, in conjunction with other agencies or departments, shall investigate each incident of loss, damage, or destruction for which a loan was made under this section. If he determines that the owner or operator who received the loan was not at fault, the Secretary shall cancel repayment of such loan and refund to such owner or operator any principal and interest payments thereon made prior to the date of such cancellation. If he determines that the owner or operator who received the loan was at fault, the loan shall not continue for its term and shall be repaid within a reasonable time as determined by the Secretary.

"(c) The Secretary, with the assistance of the Attorney General, the Secretary of State, and the claimant, shall take appropriate action, pursuant to the provisions of title 28, United States Code, to collect on any right assigned to him under subsection (a). Amounts collected under this subsection shall—

"(1) if such loan was canceled pursuant to subsection (b), be paid into the Fishermen's Protective Fund created under section 9, to the extent of the amount so canceled;

"(2) if not so canceled, be applied to the repayment of such loan; or

"(3) to the extent not used pursuant to paragraph (1) or (2), paid to the owner or operator who assigned such claim.

"(d) For the purposes of this section, the term 'Secretary' means the Secretary of Commerce.

"(e) The Secretary may from time to time establish by regulation fees to recover the cost of administering this section. Such fees shall be paid by the owner or operator making claims under this section.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. PACKWOOD. Mr. President, the amendment that I am offering to the Fishermen's Protective Act reauthorization, S. 1184, will alleviate a great uncertainty facing all U.S. commercial fishermen; namely, what to do if their vessels or gear are damaged by foreign fishing vessels within the new U.S. 200-mile fishing zone.

As it now stands, a fisherman who is injured by a foreign vessel or crew must enter a claim to an international recovery board, or as proposed, could submit to arbitration with the foreign country. In either case, there is a delay to the fisherman in obtaining compensation to cover his loss. In my home State of Oregon, as well as the distinguished Senator from Washington (Mr. MAGNUSON), there are fishermen who have waited months, and in some cases, over a year for some form of relief. This imposes a tremendous burden on fishermen, who frankly, have no other means of recovery and face a limited season in which to fish.

The "Fishing Claims Recovery Program" which my amendment creates will allow the Secretary of Commerce to make loans to fishermen who encounter losses due to foreign fishing vessel caused damage. However, any loan made by the Secretary would be contingent on the claimant assigning his rights of recovery against the foreigner to the Secretary. In this fashion, the tedious, diplomatic matter of recovery against a foreign country will be handled by the Federal Government, and the aggrieved fisherman will be able to get on with his business.

Mr. President, the version of this amendment has been modified in several respects to meet concerns that were expressed since it passed the Senate in May 1977.

First, the Secretary of Commerce is authorized to make loans for damages claimed in excess of $2,000 which are "reasonably" determined to have been caused by a foreign vessel or crew. This should alleviate any administrative problems that might have been caused if all claims were eligible under this program.

Second, the interest rate has been changed from 2 percent to an amount "not in excess of 3½ percent." This revised figure is the same rate charged on most Federal disaster loans and should be applicable in instances such as those covered by this program.

Third, provision has been made for the Secretary to charge administrative fees of claimants to cover the management costs that will result.

Fourth, eligibility will only be granted for claims that have not been "substantially resolved" and which occurred after July 1, 1976. This should prevent a rehearing of claims for which a resolution has already been achieved, and yet, allow the Secretary to assist if compensation is warranted.

And last, a substantial change has been made for instances in which the claimant was actually at fault in causing the resultant damage—if the Secretary determines that the claimant was at fault, then repayment of the loan will be required within a reasonable period under the circumstances. There will be no loans left outstanding if the Secretary should decide that the claimant was responsible for the resulting damage covered by a loan.

In the final analysis, Mr. President, this recovery program will enable the Secretary, when and where she or he feels it appropriate, to aid our country's fishermen against the odds of international recovery. It is not a subsidy program; we are only providing help where there is not now a feasible alternative for prompt compensation. It is not a giveaway, since any loan is granted contingent upon the rights of recovery against the foreigner being assigned to the Secretary. And, lastly, it is intended to be a self-sustaining program financially. Loans made will be repaid, and for those cases in which the Secretary determines that the foreigner should compensate the U.S. fishermen all payments will be returned to the Fisherman's Protective Fund except for excess amounts that shall be given to the aggrieved fisherman.

Mr. STEVENS. Mr. President, I delayed the consideration of this matter overnight in order to check the amendment to determine its applicability to the area off Alaska, and there was one slight modification to include an area of intermingling of United States and Russian fleets on the Continental Shelf of the Bering Sea beyond the 200-mile zone of either country under the protections involved in this amendment.

The principal reason for the passage of this legislation is to protect American fixed gear fishermen from financial loss when their gear is swept away by foreign trawlers. There is an area in the Bering Sea beyond the 200-mile zone of the United States over which the United States exercises fishery management authority for Continental Shelf resources. We have exercised this authority since 1958 when the world community agreed to the Continental Shelf Convention."

The area of the Bering Sea in question is a rich crab ground. Crab are fished with fixed gear called pots. The area is also rich in pollock which the Soviets and Japanese trawl for. There is a potential gear conflict between my crabbers and the foreign trawlers. This technical change to the Packwood amendment expands the scope of the protection offered by this bill to include my crab fishermen who fish in the Bering Sea on the U.S. Continental Shelf beyond the 200-mile fisheries zone.

The ACTING PRESIDENT pro tempore. The question recurs on the motion to concur on the House amendments with an amendment.

The motion was agreed to.

Mr. BAKER. Mr. President, is there any time remaining to me under the standing order? If so, I yield it back.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

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## LABOR-HEW APPROPRIATIONS, 1978—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore (Mr. BURDICK). Under a previous order, the Senate will proceed to the consideration of the conference report on H.R. 7555, which the clerk will state.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and Related Agencies for the fiscal year ending September 30, 1978, having met, after full and free conference have been unable to agree.

The ACTING PRESIDENT pro tempore. On this measure there is a time limitation of 2 hours, to be divided four ways. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be equally charged among all four parties.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr.

STENNIS). Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to be charged against either side on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

## NOVEMBER LEGISLATIVE PROGRAM

Mr. BAKER. Mr. President, while we have a few moments for morning business, I should like to ask the majority leader if he has some idea of how we are going to proceed during those days when we shall be in, either in pro forma session or otherwise, after this week. What I am thinking of in particular is the announcement we made on the day before yesterday that we would be in pro forma sessions as we described in that colloquy, and that we would assure Members of the Senate that there would be no votes at certain times. On those days when we did not assure that there would be no votes, what did the majority leader have in mind to transact, what sort of business?

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for this question. I believe it is one which ought to be clarified for the understanding of all our colleagues.

Let me begin by saying that it is anticipated that the Senate will complete action on the social security financing bill this week. In the unlikely event that that should not occur, then, on Monday, a week from this coming Monday—in other words, on November 14—the Senate would resume consideration of the unfinished business, the unfinished business being the act to amend the Social Security Act. It would work as long during that week as necessary to complete action on the bill. The distinguished minority leader and I have alerted our colleagues to the fact that there will be no business transacted during the week of Thanksgiving, but on Monday, November 28, in the unlikely event the Social Security Act has not been disposed of by then, the Senate would be back on that bill, it being the unfinished business.

I do not anticipate that kind of problem with the Social Security Act, but, inasmuch as there have been some media references to possible lengthy debate on the measure, I think we should at least be aware of possible contingencies and be prepared for them so the Senators will be informed of what could be the situation in the event that Senate action on that measure is not completed this week. In the event that action is completed this week, then we would proceed as the distinguished minority leader and I have agreed earlier, to have pro forma sessions during the week after next and during the week after Thanksgiving, but we would be prepared, at any time conference reports are available, to take them up. If they are expected to be somewhat controversial or if there are indications that rollcall votes will be desired on such conference reports, we shall jointly inform our colleagues on our respective sides as early in advance as possible so Senators can make arrangements to be here on the rollcalls.

There is one other area that I have not mentioned thus far that I think should be mentioned. That has to do with noncontroversial nominations. If there are nominations that are not controversial or that can be disposed of briefly, after a brief debate—with no controversy, but a Senator may want to say a few words on a nomination—if they can be done by voice vote, we would arrange, through our pro forma announcements, to leave a little time for the conduct of that kind of business.

If there are nominations that would require votes—which are not controversial but on which votes are asked—then we would arrange in advance to alert our colleagues that there would be votes on those nominations. But we would schedule those at times when Senators are expected to be back in town anyway for votes on conference reports.

Mr. BAKER. Mr. President, I thank the majority leader.

If I understand his statement, we are going to have no votes the week of the 6th of November and no votes the week of the 20th of November, and that if we have not finished the pending business, which is the social security bill, by the end of this week, we shall be in session to complete it the week of the 13th and the week of the 27th.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. And that in addition to that—this is new information—from time to time, if there are noncontroversial nominations reported which can be cleared without a rollcall vote, we would propose, during some or all of our pro forma days, to dispose of those nominations; but if there are nominations which require a record vote and are noncontroversial, we would make every effort to notify our colleagues in advance of that situation.

Mr. ROBERT C. BYRD. And we would schedule those on days when our colleagues would be here anyhow for conference reports.

Mr. BAKER. And for those nominations over which there is controversy and which would require a rollcall vote, they would not be scheduled during those periods.

Mr. ROBERT C. BYRD. If there is such controversy as would require very lengthy debate on them, I would anticipate that we would not get into them.

Mr. BAKER. I thank the majority leader; that is very helpful.

Of course, I would certainly volunteer to cooperate with him in trying to identify those matters.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. President, I hope that good progress can be made on the social security bill today. It is my belief that we should not stay in today beyond the hour of 7 o'clock at the latest. Tomorrow, being Friday, we can come in early again and have a reasonably long day tomorrow, if necessary, and Saturday likewise.

So I believe that the Senate should be able to complete its action on this bill. It is not a complex and difficult bill. There should not be too many amendments to it. I hope the Senate can complete action on the bill by the close of business Saturday.

As a matter of fact, there is only one other measure that I have in mind, that being the redwoods bill. If it were possible to complete action on both the social security and redwoods bills by the close of business tomorrow evening, I would see no reason for a Saturday session.

The PRESIDING OFFICER (Mr. STENNIS). Would the leader yield to me for one question there? He said, "Saturday likewise," but the Senator's speaker had weakened a little when he was describing Friday. So if the Senator would go over Friday again, it will tie in.

Mr. ROBERT C. BYRD. I am sorry.

The PRESIDING OFFICER. That is all right. It was not the Senator's fault.

Mr. ROBERT C. BYRD. I said that the Senate would be in today until no later than 7 o'clock p.m. That on Friday, tomorrow, the Senate would come in early and continue its work on the social security bill, if that work is not completed today. We would go through a reasonably long day tomorrow and be in, I am sure, on Saturday in an effort to finish our work on the social security bill, if need be.

I also indicated that other than the social security bill, there is one bill, the redwoods bill, which the distinguished majority whip and the junior Senator from California have some interest in.

I would hope we could dispose of both the social security bill and the redwoods bill by the close of business tomorrow, Friday, in which case there would be no necessity for being in Saturday—otherwise we would have to be in Saturday if action on the social security bill is not completed.

The PRESIDING OFFICER. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I thank the minority leader.

### MORNING BUSINESS

While we are in session awaiting the sine die adjournment—which must await the actions of the conferees, particularly on the energy legislation—from time to time we should perhaps allow a little morning business just for the purpose of allowing Senators to introduce bills and allowing committees to report because, in the meantime, committees may meet since the Senate would not be in session. They can continue to meet and they may have matters they may wish to report. From time to time, I think we ought to have just a little morning business in those pro forma sessions—not to transact business other than conference reports and nominations—but to allow the other routine morning business, the committees to report and Senators to introduce bills and resolutions, if they so desire.

Mr. BAKER. Mr. President, I think that is a good suggestion. I would certainly join the majority leader in sug-

gesting that we handle the pro forma days in that way and, of course, this would still fall within the purview of the statements we have made to our colleagues about the nature and type of business to be transacted at that time.

The PRESIDING OFFICER. I commend the Senators for putting into the RECORD their very complete statement just the way it will be in the days to come. I think they have worked out an amazing process there that would try to take care of all this business we have ahead of us, at the same time not any lost motion for the part of the time anyone can go to his home.

Mr. ROBERT C. BYRD. The Chair is very thoughtful, considerate, and kind.

The PRESIDING OFFICER. Who yields time?

## CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further morning business of my own.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The time will be charged equally and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes without the time being charged to anyone.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTERNATIONAL FISHERY AGREEMENT WITH MEXICO

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9794.

The PRESIDING OFFICER laid before the Senate H.R. 9794, an act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

Mr. SPARKMAN. Mr. President, on August 26, 1977, the United States entered into a Governing International Fishery Agreement (GIFA) with Mexico. This agreement, which was submitted to the Congress on October 7, 1977, will permit Mexican fishermen access to a portion of the allowable catch for specified fisheries within the U.S. fishery zone where there is a surplus above the harvesting capacity of U.S. vessels. Under the provisions of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), agreements of this nature enter into force after 60 days of continuous session following their transmittal to Congress. Therefore, under the normal process, this agreement will automatically come into effect sometime in February 1978.

In accordance with its responsibilities under Public Law 94–265, the Commerce Department has announced that a large surplus of various species of fish will be available for foreign fishing in 1978. From this surplus, the Department of State has provided a generous allocation to Mexico. Consequently, the Mexican Government is anxious to expedite the approval process of this agreement to gain access to U.S. surplus fish. Mexico is particularly interested in gaining access to the U.S. squid fishery which begins its season in early January.

In view of this fact, the Department of State has formally requested Congress to provide for an early approval of this agreement. I ask unanimous consent that a copy a letter from Assistant Secretary Patsy Mink be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF STATE,
OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS,
*Washington, D.C., October 17, 1977.*

Hon. JOHN SPARKMAN,
*Chairman, Committee on Foreign Relations, U.S. Senate, Washintgon, D.C.*

DEAR MR. CHAIRMAN: The Governing International Fisheries Agreement between the United States and Mexico is now before your Committee for its consideration in accordance with the provisions of the Fisheries Conservation and Management Act of 1976. Under the provisions of that Act the Agreement will become effective after lying before the Congress for 60 days of continuous session. We have been informed that the 60-day period of consideration for this Agreement will end in mid-February 1978. The Government of Mexico has expressed to the Department of State its hope that it would be possible to shorten the time period required for consideration of this Agreement.

A number of Mexican vessels have applied to fish for squid in the United States fishery conservation zone during 1978. The Department of Commerce has indicated that a surplus of squid will be available for foreign fishing. We would like to make an allocation from that surplus for Mexico and to provide Mexican fishermen with fishing permits as early as possible in 1978, since the squid season begins in January.

We believe that it would be in the best interests of the United States if every effort were made to bring the Agreement into force as soon as possible. United States fishermen, for a number of years, have fished quite extensively off Mexico's Pacific and Gulf coasts. These fisheries are continuing under another Agreement, signed in November of 1976. As a matter of simple equity, we believe Mexican fishermen should be provided reasonable opportunity to fish off the U.S. coast. We also believe that encouraging this reciprocity in fishing is in the interests of U.S. fishermen who operate off Mexico in that it lead to the kind of fisheries relationship in which each country has an interest in providing continued access to fishermen from the other country.

As a general rule, we do not advocate taking measures to shorten the 60-day provision in the Fishery Conservation and Management Act. In this case, however, because of the special nature of our fisheries relationship with Mexico and the circumstances surrounding the timing of the 1978 fishing season for squid, we believe an exception is warranted. I would appreciate your taking whatever action you consider appropriate to enable Mexican fishermen to begin fishing stocks surplus to U.S. needs as soon as possible.

Very truly yours,

PATSY T. MINK,
*Assistant Secretary.*

Mr. SPARKMAN. Mr. President, on November 1, 1977, the Committee on Foreign Relations met to consider the agreement. At that time, the committee agreed to waive its right of referral over H.R. 9794 in order to speed up the approval process of the Mexican GIFA.

It should be noted that the Mexican Government entered into an agreement with the United States in November 1976, which grants U.S. fishermen access to surplus fish in the Mexican fishery zone. The value of these fisheries to U.S. fishermen is approximately $40 million.

It should, also, be noted that the U.S. fishing industry has no objection to Congress taking quick action on this bill. In fact, the Committee on Foreign Relations has received telegrams from the Gulf of Mexico Fishery Management Council, the Southeastern Fisheries Association, the National Shrimp Congress, and the Texas Shrimp Association—all urging early approval of the Mexican fishery agreement.

In view of the administration's request, industry's support, and the need to promote continued cooperation on fishery issues with Mexico, I urge the Senate to support the passage of H.R. 9794.

Mr. MAGNUSON. Mr. President, this is a bill designed to bring into immediate effect the recently negotiated governing international fishery agreement (GIFA) with the Government of Mexico.

The Committee on Commerce, Science, and Transportation, which has jurisdiction over the governing international fishery agreements negotiated under the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has waived jurisdiction over this bill in order to expedite its approval as soon as possible.

The normal procedure is that a GIFA will not become effective prior to the close of the first 60 days of continuous session of the Congress after the date on which the President transmits the text of the GIFA to Congress. Because the GIFA with Mexico was not transmitted to Congress until October 7, 1977, it will not become effective until next year absent immediate congressional action.

The effective date of 10 GIFA's negotiated with other nations have been accelerated by congressional action through the Fishery Conservation Zone

Transition Act (Public Law 95-6, as amended 95-8). H.R. 9794 simply amends this act once again in order to include the recently negotiated GIFA with Mexico and thus bring it into immediate effect. The House Committee on Merchant Marine and Fisheries held hearings on this bill and favorably reported it, and the House subsequently passed the bill. In order to further our negotiations on fishery matters with the Government of Mexico and to bring the Mexican GIFA into immediate force, I urge the Senate to take similar immediate action and pass H.R. 9794.

UP AMENDMENT NO. 1039

(Purpose: To make certain changes with regard to officers of the National Oceanic and Atmospheric Administration.)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment to that bill to make certain changes with regard to the officers of the National Oceanic and Atmospheric Administration, on behalf of Mr. MAGNUSON, Mr. HOLLINGS, and Mr. STEVENS.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself, Mr. MAGNUSON, Mr. HOLLINGS, and Mr. STEVENS, proposes an unprinted amendment numbered 1039.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 3. (a) Section 15 of the Coastal Zone Management Act Amendments of 1976 (15 U.S.C. 1511a) is amended as follows:

(1) Subsection (a) of that section is amended by striking out "Associate" each place it appears therein and inserting in lieu thereof in each such place "Assistant".

(2) Subsection (b) of that section is repealed.

(3) Subsection (c) of that section is redesigned as subsection (b).

(b) There shall be in the National Oceanic and Atmospheric Administration a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate now or hereafter provided for level V of the Executive Pay Rates (5 U.S.C. 5316). The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of the Administration.

(c) Section 5316 of title 5, United States Code, is amended by striking out paragraph (140), and inserting in lieu thereof the following new paragraph:

"(140) Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration."

"(141) General Counsel, National Oceanic and Atmospheric Administration."

"(142) Assistant Administrators (4), National Oceanic and Atmospheric Administration."

(d) Section 2(e) of Reorganization Plan Number 4 of 1970 (relating to the National Oceanic and Atmospheric Administration) (84 Stat. 2090) is amended—

(1) by striking out "three additional officers" in the first sentence thereof, and inserting in lieu thereof "four assistant administrators";

(2) by striking out "such officer" in the second sentence thereof, and inserting in lieu thereof "such assistant administrator", and

(3) by striking out "under the classified civil service," and inserting in lieu thereof "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service,".

(e) The Secretary of Commerce may, in order to carry out the functions vested in the Secretary and carried out through the National Oceanic and Atmospheric Administration, establish, fix the compensation for, and make appointments to, eight new positions within the National Oceanic and Atmospheric Administration. Such positions may be established without regard to the provisions of chapter 51 of title 5, United States Code, and the compensation therefor may be fixed without regard to chapter 53 of such title 5, except the rates of compensation for such positions shall not exceed the maximum rate established from time to time for GS-18 of the General Schedule under section 5332 of title 5, United States Code. An appointment to each such position may be made by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and persons appointed to such positions shall serve at the pleasure of the Secretary. The positions authorized by this subsection shall be in addition to the number of positions otherwise authorized by law.

Mr. MAGNUSON. Mr. President, Richard Frank, Administrator of the National Oceanic and Atmospheric Administration, recently announced, and is seeking congressional approval of, a reorganization of his agency. On September 13, I spoke on the Senate floor of my support for the proposed reorganization. At that time I mentioned that I was particularly pleased with the establishment of the position of Assistant Administrator for Fisheries. I believe these changes are necessary for NOAA to develop into the true lead ocean agency in this Government as the Stratton Commission envisioned.

Senator HOLLINGS and I recently introduced S. 2224, a bill to establish an organic act for the National Oceanic and Atmospheric Administration. That legislation is a much more comprehensive statement of NOAA's missions and officer structure than the amendment we offer today. The amendment at hand simply accomplishes interim changes in titles of top NOAA officials and enables NOAA to add eight additional supergrades to its structure. The Senate Commerce Committee plans broadscope oversight hearings into NOAA. However, these interim changes are needed so that Mr. Frank can begin to hire his new "team".

I urge the Senate to concur in this amendment. It must be adopted this week in order for the reorganization to be completed and an orderly transition to new leadership accomplished.

Mr. HOLLINGS. Mr. President, I join my colleague from the State of Washington (Mr. MAGNUSON) in supporting this amendment to accomplish an interim reorganization of the National Oceanic and Atmospheric Administration. At the time of the change of administrations, I requested Secretary Juanita Kreps of the Department of Commerce to give consideration to strengthening NOAA. I also submitted to her and her staff some of my own ideas about NOAA and its future.

The reorganization which Mr. Richard Frank now proposes contains many of the suggestions I made to Secretary Kreps. Of key concern to me is the recognition that NOAA has been transformed from an agency dealing exclusively with science, research, and services (primarily weather) to one with important management duties, for example, fisheries and marine mammals as well as the coastal zone. Creating line responsibility for Assistant Administrators fits a management agency better than the previous staff arrangement. An Assistant Administrator for Policy would be created and this is needed. Finally, I very much approve of the proposal to create an Office of Ocean Management.

The amendment I am cosponsoring today would clear the way for this reorganization by—

First. Redesignating all Associate Administrators of NOAA as Assistant Administrators, except for one executive level IV associate;

Second. Creating the Office of General Counsel of NOAA as an executive level V position, requiring advice and consent of the Senate to reflect the important policy role played by the General Counsel;

Third. Making all Assistant Administrators (except that for administration) executive level V, and adding two new Assistant Administrator positions over and above that now allowed (for policy and for research and development); and

Fourth. Providing NOAA with eight supergrade positions to fill the new positions available.

The reorganization proposal is well outlined in a memorandum for Secretary Kreps prepared by Richard Frank. I ask unanimous consent that that memorandum and a statement of purpose and need be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REORGANIZATION OF A NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

This document describes the new organization of the National Oceanic & Atmospheric Administration (NOAA) I am asking you to approve. It reviews the process through which this organizational structure was developed, the criteria guiding the selection, and a variety of alternatives considered, and includes a point-by-point description of the proposed organizational structure.

I. DEVELOPMENT OF THE REORGANIZATION PLAN

This reorganization plan represents the culmination of many months of effort by a large number of people both inside and outside NOAA. In February 1977, Assistant Secretary Jasinowski initiated the first of a series of meetings with representatives from the National Ocean Policy Study, the Office of Technology Assessment, and members of the staff of the House Merchant Marine & Fisheries Committee. These discussions were in response to a thoughtful reorganization plan recommended by the National Ocean Policy Study staff and Senator Hollings which was considered along with reorganization proposals developed by NOAA Administrator Dr. Robert M. White and by others in the Department of Commerce. They provided the basis for a Department of Commerce Options Paper on NOAA reorganization incorporating all of the proposals and presenting a wide range of alternatives for internal, departmental, and governmental reorganization of oceans activities.

Shortly after my arrival at NOAA as Administrator-designate, I circulated the DOC Options Paper to the career management within NOAA. The Options Paper and other proposals by NOAA personnel served as the basis for two extensive group discussions within NOAA on reorganization, as well as consulta-

tions individually and in small groups. I also had extensive conversations with Dr. White and with Assistant Secretary for Science and Technology Jordan Baruch, his deputy Frank Wolek, and an expert on organizational structures.

To gather additional views, I consulted with several Senators and Congressmen and their staffs. I also met with the President's Adviser for Science and Technology, Frank Press, officials from the Office of Management and Budget, the Domestic Policy Staff, and representatives of various constituencies with an interest in NOAA, including the science community. I was particularly assisted by comments from the Chairman of the Ocean Affairs Board of the National Academy of Sciences, who had just completed a thorough and insightful evaluation of NOAA's ocean research and development programs.

These consultations revealed widespread support for a reorganization of NOAA to improve its operating effectiveness and to permit it to address newly acquired and anticipated program responsibilities. While different individuals and interest groups found various features particularly appealing and believed reorganization was advisable for differing reasons, I believe the structure proposed below will be favored by, or will at least be acceptable to, a wide range of interested groups and individuals.

II. CRITERIA FOR SELECTING THE ORGANIZATIONAL STRUCTURE

The selection of an organizational structure should be based on general principles of organizational design and on concepts about the functions the organization should fulfill. The structure should—

Place accountability with identifiable individuals for program management and policy decisions.

Have a minimum number of layers between program managers and the Administrator and clear lines of communication, both vertically and horizontally.

Create management positions that can be handled by the people who can be attracted to them, neither demanding superhuman capabilities nor creating figureheads.

Be able to absorb anticipated program growth.

Be understandable to the public, so that consumers of the organization's output will be able to identify readily those with whom they should interact.

Allow the agency head to exercise leadership by providing the necessary planning and management staff support and relieving him/her of unnecessarily detailed management responsibilities.

Achieve more efficient utilization of the resources available to produce more and better information and to bring it to bear on national problems in a more timely fashion.

Cause a minimum of disruption of existing organizational patterns consistent with achievement of other objectives.

In addition to these general criteria, certain objectives relating specifically to NOAA led to the conclusion that our structure should

Address the recent transformation of the fisheries program into a regulatory, resource management program requiring sensitive balancing of interests and often controversial policy decisions.

Establish an appropriate balance between oceanic and atmospheric aspects of the program while recognizing the fundamental interrelation of these activities.

Recognize the pervasive role of research, technology development, and environmental monitoring in NOAA's activities, and the importance of relating those activities to the larger scientific community.

Facilitate the assimilation of potential new programs such as ocean minerals regulation and development, a national climate program, and antarctic living resource management.

III. THE ALTERNATIVES

In developing this reorganization, I considered a number of alternatives that are reviewed briefly here. The starting point was an evaluation of the existing organizational structure (Chart 1). That structure, though it has been continually evolving since the creation of NOAA in 1970, still reflects the disparate elements that were brought together seven years ago. Several aspects were identified in the existing organizational structure which might be improved:

An increasingly large number of line and staff officers report to the Administrator (and the Deputy and Associate), especially with the new responsibilities inherent in the Coastal Zone Management Act of 1972 and its 1976 Amendments, the Marine Mammal Protection Act of 1972, and the Fisheries Conservation & Management Act of 1976.

A growing number of basic program activities can only be carried out through the joint efforts of two or more major line components, creating important coordination problems that can only be resolved by the agency leadership.

The Associate Administrator for Marine Resources and the Associate Administrator for Environmental Monitoring & Prediction each play a combination of operational and staff roles, often overlapping the functions of line managers.

NOAA has little policy development capacity.

Fisheries management decisions are unclearly divided between the Director of the National Marine Fisheries Service and the Associate Administrator for Marine Resources.

No single individual serves as the coordinator for research and technology development activities of the Environmental Research Labs, Sea Grant, the Office of Ocean Engineering, and the research programs of the other major line components.

The director of the Environmental Research Labs, in Boulder, Colorado, is forced to divide his time between traveling to coordinate programs with the Washington research community and NOAA service programs and developing new directions for the NOAA labs, particularly in oceans research. These tasks cannot all be handled by a single individual if NOAA's ocean and climate research programs are to advance and grow as they should.

No individual has the responsibility of interacting with the outside scientific community.

No effective mechanism exists for transferring technology from the research laboratories to the service elements.

No single office has lead responsibility for developing NOAA's ocean management capabilities, or for its developing climate program.

The alternatives considered divided into three sets of issues—the composition of the line elements, the structure of the executive administration, and certain special program concerns.

*A. Line structure*

Several alternative line structures were evaluated. Two alternatives involving major reshuffling of present organizational units were carefully considered but ultimately set aside. The first (Chart 2) would separate resource management and resource development functions, so that activities like fisheries, ocean minerals, and coastal zone activities would be divided into their management and development components. A more dramatic restructuring (Chart 3) would establish an operations support unit responsibilities for all of the "hardware" (ships, satellites, etc.), an information gathering and technology development unit, and a resource management and services output unit. While each of these alternatives was intriguing for several reasons and has certain advantages, and while examples of each can be found elsewhere in the Government, they had certain defects as well. They failed to provide clear program accountability below the Administrator, created difficult staffing problems, and involved the greatest disruption within the organization. These proposals did not receive widespread support from NOAA managers, and I decided not to adopt at this time a reorganization that would so disrupt NOAA's operations.

Separation of oceanic and atmospheric activities within NOAA (Chart 4), a recommendation of several outside commentators, was also debated and carefully considered. The very fact that this proposal was made had beneficial effects. It forced us to analyze the relationship between oceans and atmosphere, and to assess whether combining the two had worked to the detriment of ocean activities. While recognizing this concern, the scientific community and NOAA career managers were almost unanimous in their opposition to the separation, citing the desirability of integrated environmental analysis, the importance of ocean data to climate studies, the needed growth of marine weather and satellite activities, and the organizational disruption involved. The primary argument for separating oceans and atmosphere is to assure the ocean activities are handled aggressively and with innovation. I intend to pursue that objective vigorously, and I believe ocean activities will prosper without an organizational division at this time. This judgment will be reappraised in one to two years, and if ocean activities are disadvantaged because of the nexus, I would want to reconsider a separation.

The remaining line structure options (Charts 5, 6, 7, and 8) were quite similar. Each called for establishment of an Assistant Administrator for Fisheries (or Living Resources) to elevate the chief of the nation's fisheries program to a policy-making, politically responsive level. This Assistant Administrator would continue to be responsible for protection of marine mammals and endangered species, despite the potential for conflicts among constituent interests in this area. Each option retained an Assistant Administrator for Coastal Zone Management (or Ocean & Coastal Management, depending on where the new ocean management activity was located). They differed in the grouping of the remaining major line components, which are responsible for the research and service programs.

My choice among these options reflects a judgment that grouping services under an Assistant Administrator for Oceanic & Atmospheric Services and grouping research and development of new technology under an Assistant Administrator for Research & Development will create the most sensible and convenient working relationships. Combining the oceanic and atmospheric service components of NOAA under an Assistant Administrator will facilitate allocation of resources and permit resolution of numerous management issues at that level. Establishment of an Assistant Administrator for Research & Development conforms to the recommendation of the National Academy of Sciences that a research and development focus is essential to assure proper direction for NOAA's R&D programs, full coordination with other government research efforts, and an intimate working relationship with the scientific community. The Director of the Environmental Reesarch Labs in Boulder will then be able to give full attention to developing new oceans and climate research programs and to expanding, and upgrading the quality of, NOAA's labs to meet our growing national needs.

Experience may, of course, ultimately dictate modifications in any of the above allocations of functions, such as transfers of part of various major line components to

improve operating efficiency and program balance.

*B. Executive administration*

The alternatives here revolved around three issues: The scope and character of the policy office, the role of the General Counsel, and whether two deputies (or a deputy and associate) should be retained.

Proposals for the policy office ranged from a small policy development group to an office including major program development and evaluation responsibilities to a combination of those responsibilities with budget development. In favor of the broader conception (Chart 2), it was argued that policy and program development would be more effectively implemented if that office also controlled the budget process. Many persons familiar with the budget process, however, suggested that the reverse would be the case: namely, that if this office had primary responsibility for the budget, it would never find time for policy planning and program development. Further, some were concerned over the disproportionate power an office of policy and budget would have. The model of the Department of Commerce itself, where an Assistant Secretary for Policy is separate from the Office of Budget and Program Evaluation under the Assistant Secretary for Administration, provided another alternative for consideration. (Chart 3) Finally, the policy, budget, and administration activities could each be separate and report to the Administrator and the Deputy or Deputies (Chart 6). In light of the universal agreement that NOAA needs a stronger policy development capability, I have concluded that a policy and planning unit should be created. I believe that unit should be separate from the budget process for the reasons mentioned above.

The role of the General Counsel has changed dramatically over the last five years as a result of NOAA's new resource management responsibilities under the fisheries management, marine mammal, endangered species, and coastal zone legislation. The Office has grown from 11 attorneys and one field office in 1972 to over 40 attorneys and five field offices today. Resource management and enforcement policy questions have come to dominate the work of the Office, and the General Counsel has become a key advisor to the Administrator on a broad range of critical issues. In response to these developments, some commentators suggested the establishment of a separate Office of Enforcement to develop and supervise the implementation of enforcement policy. This approach reflects the experience of the Environmental Protection Agency, where the enforcement and general counsel functions, which were initially combined, have now been separated. While such a separation may eventually be necessary in NOAA, I am inclined to allow the General Counsel's Office to remain in its present organizational form, with the instruction to work with the Office of Policy & Planning and the Assistant Administrators to develop coherent and realistic regulatory and enforcement policies. I do think that the General Counsel should be an Executive Level V like the other top echelon NOAA officials and general counsels who have comparable responsibilities in other agencies, to give recognition to the key role of the Office.

The choice between one or two deputies (or a deputy administrator and associate administrator) was influenced by the variety of functions to be performed at the Administrator level in NOAA. Establishing a single deputy would avoid the problem of coordination between the two deputies and simplify the line of command. But the broad spectrum of NOAA activities, its range of constituencies, and the complexities of integrating scientific, economic, regulatory, political, and legal concerns all suggest that a deputy for day-to-day management of the organization and a second deputy for attention to special problems and to provide the additional high-level authority would make NOAA a more effective voice on oceanic and atmospheric matters. Establishment of two deputies allows for selection of one person with scientific background and one with a non-scientific background, which will bring a broader perspective to bear on critical NOAA decisions.

*C. Special program concerns*

In the many discussions on reorganization, four areas emerged that deserve greater attention within NOAA. In each case, recommendations were made to create a special office reporting directly to the top management. While that is not a sensible solution to all new concerns, I considered whether such a solution was appropriate in each of these cases. I am proposing some kind of new organizational arrangement for each one. Some will be implemented immediately, while others will await the selection of key personnel who should have a voice in the arrangements.

Ocean Minerals—Recent developments in Congress and the LOS negotiations make it increasingly urgent that NOAA have an effective role in guiding national policy in this area. In addition to the environmental analysis being carried out under the DOMES program and the activities in the Office of Marine Minerals (under the Associate Administrator for Marine Resources), NOAA needs to be able to analyze and develop positions on pending legislation, take an active role in formulating national positions for the LOS negotiations, and investigate the scope and character of the administrative program that will be needed to conduct the Federal program that emerges. Because the nature of the program is still so undefined, I propose to place an ocean minerals office in the policy and planning office to carry out these functions until Congress creates an operational program. If NOAA is designated to head that program, an operating office designed to implement the legislative mandate would be created at that time.

Marine Mammals and Endangered Species—NOAA currently has legal responsibility for the protection of marine mammals (such as porpoise and whales) and endangered marine species (such as sea turtles). Increased fishing activity and modern technology have made these protection programs more essential and their impact on economic activity more severe. These programs are presently administered by a division reporting to an Associate Director of the National Marine Fisheries Service (NMFS). With this arrangement, it is difficult for these issues to get the attention they deserve before they become unmanageable controversies. At the same time, the program cannot be completely separated from the fisheries because it is so heavily dependent upon the research conducted by the regional fisheries centers of NMFS. I have concluded that the best course of action is to raise the level of this program so it reports directly to the Assistant Administrator for Fisheries, and I will take that step as soon as I have reviewed the question with my selection for that position.

Climate Research.—The drought and severe winter, combined with increasing scientific concern about the climatological impact of heat, aircraft exhaust, and $CO_2$, have generated a growing demand for a coordinated government-wide program of climate research. NOAA is generally acknowledged as the logical focal point for such a program, and efforts are already underway in Congress and the Executive Branch to design an effective plan. NOAA has already set up an informal coordinating office. I believe that this arrangement should be formalized into a National Climate Policy Office reporting to the Assistant Administrator for Research & Development, and I propose to take that step as soon as I have reviewed the question with my choice for that position.

Ocean Management.—The most forward-looking proposal to emerge from the analyses of NOAA reorganization called for creation of an Office to assess the impact of alternative uses for intensely used ocean areas and recommend patterns of development that will result in optimum benefit for the community as a whole. At the present time no agency carries out this function because ocean use is pursued by a number of mission-oriented agencies and private enterprises. NOAA is the primary repository in the government for the information, the scientific and technical skills, the experience (under the Deepwater Port Act, the Coastal Zone Management Act, and the Fish and Wildlife Coordination Act) for making such evaluations. Although there is no formal legal authority for NOAA (or any other Federal agency) to make binding ocean use decisions, I believe that effectively articulated NOAA assessments of proposed ocean developments can have a salutory effect on the quality and foresightedness of these decisions. I was pleased to find widespread agreement with this view in my consultations on reorganization. Organizationally, this program could be located in one of several places. It should be close to the leadership of the agency because of its interdepartmental and potentially controversial functions. It could be a separate major element headed by an Assistant Administrator, an adjunct to the Coastal Zone Management program (with which it has the most affinity), or a smaller office drawing its information and advice from other parts of the agency. I propose the latter option, at least initially, until I have had an opportunity to see how the ocean management effort actually works and whether Congress or the President is willing to formalize this role for NOAA. The office would be headed by a Director and report directly to the Administrator.

IV. THE NEW NOAA ORGANIZATIONAL STRUCTURE

On the basis of the ideas discussed above, I recommend the following organizational structure for NOAA (Chart 8):

*A. The line elements*

The line elements of the new NOAA organization are the following:

An Assistant Administrator for Fisheries, who is responsible for all aspects of the fisheries program, including the fisheries-related activities formerly conducted by the Associate Administrator for Marine Resources and the Director of the National Marine Fisheries Service. His/her responsibilities include the marine mammal and endangered species protection programs.

An Assistant Administrator for Coastal Zone Management, who conducts the coastal zone management program and the coastal energy impact program as they are presently constituted. (The responsibilities of the Office of Ocean Management may be placed under this Assistant Administrator once the bulk of the state CZM plans have been approved.)

An Assistant Administrator for Research & Development, who has overall responsibility for internal environmental research (the Environmental Research Laboratories), ocean technology development (the Office of Ocean Engineering), and support for university research and advisory services (the Sea Grant program). This Office, which will be located in Washington, coordinates NOAA research programs with research and technology development programs of other Departments, industry, the National Academy of Sciences and similar national professional organizations, and international research programs like GARP. It promotes the transfer of research information and new technology to the other components of the NOAA organization and cordinates the development and implementation of a national climate research plan. With this arrangement, the Director of the En-

vironmental Research Labs in Boulder, Colorado, will be able to concentrate on improving the quality and direction of NOAA's in-house research effort and strengthening its ties to academia at the research level.

An Assistant Administrator for Oceanic & Atmospheric Services, who has responsibility for the National Weather Service, the National Environmental Satellite Service, the National Ocean Survey, and the Environmental Data Service, and serves as NOAA's liaison to the World Meteorological Organization. This Office integrates service programs and establishes priorities to assure the expansion of the most needed services and the elimination of those services with the least general utility. It also assures an appropriate balance between the development of oceanic and atmospheric services, as well as the utilization of the most effective technologies for performing the services provided.

An Assistant Administrator for Administration, who continues to perform the same functions as in previous organizational structure.

*B. Executive administration*

The Administrator's Office, staff support, and offices of general jurisdiction would be composed of the following elements:

A Deputy Administrator and an Associate Administrator, who perform much the same functions as the former Deputy Administrator and Associate Administrator, in accordance with instructions from the Administrator.

An Assistant Administrator for Policy & Planning, who has primary responsibility for developing long-range NOAA policy, designing programs to implement these policies in conjunction with the line Assistant Administrators, and coordinating policy development and implementation with the policy staff of the Department of Commerce, other Departments, the Congress, the public, and elements within NOAA. This Office includes a separate Office responsible for the Ocean Minerals policy and planning effort until such time as Congressional or executive decision creates an operating program.

An Office of Ocean Management, to coordinate and advocate NOAA's evaluation of proposals for ocean use initiated by agencies of the Federal Government or the private sector. The Office makes use of techniques currently employed by the Office of Ecology & Environmental Conservation, the Marine Assessment Division of the Environmental Data Service, the Office of Marine Resources, and the Environmental Assessment Division of NMFS. It evaluates alternative ocean uses, develops overall plans for areas of particularly intense activity, and brings NOAA's views to bear in public and interagency determinations of policy on such proposals. Although it has a program responsibility in the organization, it involves a small staff that makes use of information derived from the research and monitoring activities of other line elements. Because of the high visibility and the interagency character of its activities, this Office reports directly to the Administrator, rather than as an element of one of the other line offices. Because of its mandate, this Office will have a close relationship to the Office of Policy and Planning.

An Office of Budget & Program Evaluation, which remains as a separate entity, with greater emphasis on program evaluation than in the Programs and Budget Office.

A General Counsel, Congressional Liaison, and Director of Public Affairs, who remain as they were in the former organizational structure, except that the General Counsel will be upgraded to an Executive Level V to parallel the Assistant Administrators.

V. BUDGET AND PERSONNEL IMPLICATIONS

The primary purpose of this reorganization is to improve NOAA's capability to carry out its program objectives and play an innovative leadership role. The proposed new structure will add to NOAA's efficiency.

Several new positions will be created, some will be abolished. These changes will be needed, not because of the reorganization itself, but a need to add persons in the fields of economics, political science, resource management, law, and regulatory policy—skills NOAA needs to do its job. For this purpose I will need approximately six new nonscience supergrades.

Certain personnel-related matters will require formal action through a reorganization order of the President or through legislation:

The Associate Administrator for Coastal Zone Management is given that title by statute. In the new organization that position is parallel to positions with the title of Assisant Administrator, and it should be redesignated.

Two additional Executive Level V positions are needed to raise all of the Assistant Administrators and the General Counsel to that rank.

The Assistant Administrator positions should not carry with them career status, as they presently do, in light of the increasing policy responsibility involved.

None of the changes described above requires action before the reorganization plan can become operational.

VI. EFFECTIVE DATE AND IMPLEMENTATION

If you approve, I intend to put this reorganization plan into effect by or on October 1, 1977. In the interim, I will seek your concurrence on my selection of candidates for the positions of Deputy Administrator, Associate Administrator, and each of the Assistant Administrators. I will also begin to develop the operating procedures and accounting systems for the new organization.

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STATEMENT OF PURPOSE AND NEED

Reorganization Plan No. 4 of 1970 established the National Oceanic and Atmospheric Administration to provide a focus for civilian programs of the Federal Government dealing with the oceans and atmosphere. At that time the Federal efforts in the ocean area were confined largely to scientific investigation and provision of ocean services. Over the last seven years NOAA has been assigned increasing responsibilities involving regulation, management and protection of the resources of the sea.

However, the statutes that have expanded NOAA's role, such as the Fisheries Conservation and Management Act of 1976, the Marine Mammal Protection Act of 1972, and the Endangered Species Act of 1973, did not provide authority for the Administration to modify the management structure of NOAA, particularly in view of the expanded mission of the Administration. The Associate Administrator positions established pursuant to section 2(e) of Reorganization Plan No. 4 of 1970 are in the classified civil service, on the theory that the duties of these Executive Level V positions would be scientific and technical with a minimum of policy development.

However, subsequent enactments have plunged the Administration into a wide variety of policy decisions of a sensitivity far greater than those originally contemplated such as resource management and protection decisions vitally affecting the entire U.S. fishing industry, including the tuna fleet and Indian and non-Indian salmon fishermen in the Pacific Northwest. The nature of the duties of these positions have undergone a dramatic change.

At the time the Reorganization Plan was submitted, it was acknowledged that NOAA development must be monitored and changes made in the plan as necessary. As the review of Federal ocean policy continues, it may be that significant organization changes in the Federal ocean programs wil be necessary. However, there is a need for certain less fundamental administrative changes right now to assure effective direction of existing programs. This bill provides much needed flexibility for the Secretary to appoint needed policy-level personnel to assist in the design and implementation of the invigorated programs of NOAA.

First, the bill abolishes the three existing civil service-level positions and replaces them with five new policy-level positions to assure the Administrator the flexibility to form a team capable of vigorously confronting the challenges NOAA faces. This change is in keeping with the trend exemplified in the Coastal Zone Management Act Amendments of 1976 to exempt these types of policy positions from the classified civil service. Persons occupying the present Level V positions, if not appointed to one of the new positions, would have the rights granted by Title 5 of the United States Code to persons in the classified service affected by the abolition of an existing position.

Second, the bill would make a technical change in the Coastal Zone Management Act Amendments of 1976 to change the title of head of that program to match the title of others of the same rank.

Finally, the bill would authorize the Secretary to appoint eight new positions in NOAA at pay rates not to exceed GS–18. While NOAA has been able, by virtue of special legislative provisions, to add high level scientific personnel, it is unable to add top-level career personnel with backgrounds in fields like economics, political science, resource management, law and regulatory policy. These skills are essential if NOAA is to respond to its increased responsibilities for enforcement, management and policy development under the new legislation of the last four years.

Mr. STEVENS. Mr. President, I wish to speak in regard to the amendment proposed by Mr. MAGNUSON, Mr. HOLLINGS and myself designed to add and reclassify certain positions within the National Oceanic and Atmospheric Administration.

The new Administrator of NOAA, Mr. Richard Frank, has for the last several months been working with Members of Congress to design a new reorganization for NOAA. This amendment conforms the NOAA Organic Act to the organization plan which Mr. Frank developed in cooperation with the Congress.

The new plan makes NOAA a truly self-sufficient administration. For too many years NOAA has been the stepchild of the Commerce Department without sufficient supergrade positions to oversee this Nation's ocean activities as Congress intended. Mr. President, this amendment should be viewed as correcting deficiencies in the organization of NOAA which have prevented it from living up to Congress expectations. I am confident that with these new positions and the upgrading of certain existing positions NOAA will be better able to carry out the mandate which Congress gave to it.

I am particularly heartened at the upgrading of the senior fisheries position to Assistant Administrator. Commercial fisheries work has been one of NOAA's most important functions. For too long the senior officer assigned to that task has not been awarded seniorly commensurate with his level of responsibility. The new reorganization will insure that NOAA's fisheries receive proper attention within that agency. Commercial fishing interests across the Nation should be pleased with this important change.

Mr. President, Mr. Richard Frank is the new Administrator of NOAA. He has worked closely with Congress in his efforts to upgrade the quality of work per-

formed by his agency. I think he has developed an excellent plan for improving the quality of his agency's work and I would recommend that all of my colleagues here in the Senate, support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the distinguished Senator from West Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## LABOR-HEW APPROPRIATIONS, 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 7555.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. BAYH. Mr. President, I ask unanimous consent that Barbara Dixon and Abby Reed, of my staff, have the privilege of the floor during the consideration of the conference report which is before the Senate this morning and during votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally among the parties on the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

(Mr. ROBERT C. BYRD assumed the chair.)

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded for the purpose of bringing up a conference report.

The PRESIDING OFFICER. Without objection, further proceedings under the quorum call will be rescinded.

The Senator from Mississippi is recognized.

Without objection, the time will not be charged against the time of any of the parties on the HEW-Labor conference report.

Mr. STENNIS. I thank the Chair.

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## MILITARY PROCUREMENT AUTHORIZATIONS, 1978—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on S. 1863 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test and evaluation for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 28, 1977.)

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no desire to delay the distinguished chairman of the committee, but my calendar carries a notation that the distinguished ranking minority member of the committee, Senator TOWER, wishes to be notified when this matter is presented to the Senate, and I am in the process now of trying to notify him.

Mr. STENNIS. I certainly thank the Senator from Tennessee. I had understood that the matter was cleared as of yesterday.

Mr. BAKER. I am sure it has been cleared, but since my calendar carries that notation, if the Senator from Mississippi would indulge me just a few minutes while we ask our cloakroom to see if we can remove that notation from this calendar, I think we can proceed.

Mr. STENNIS. I certainly thank the Senator from Tennessee, and if we can get this conference report approved, it will be very much in order since the Appropriations Committee is meeting now and to that end, then, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, if I could have the attention of the distinguished Senator from Mississippi, I have been able to remove the notation from my calendar and the matter is clear now for consideration.

Mr. TOWER. Mr. President, as ranking minority member of the Armed Services Committee, I rise in support of S. 1863, the fiscal year 1978 DOD supplemental appropriation-authorization conference report.

The requirement for this supplemental authorization bill was brought about by the President's decision to cancel the B–1 bomber, thereby dramatically changing our future strategic force structure. That decision was contrary to the advice of many Members of Congress, including myself, and I still believe it was a decision we could later regret. The B–1 would have guaranteed that the bomber portion of the triad would continue to be able to deliver over 50 percent of our strategic nuclear megatonnage against the Soviet Union, if required. At the same time, the B–1 would have provided a highly stable system that was completely verifiable under any arms control agreement. Despite this obvious advantage, the President made a unilateral decision that the B–1 was not required.

By his action, the President has decided that the future air-breathing portion of the triad will rely on cruise missiles, operationally, a completely untried and unproven system.

While I am confident we can eventually develop the cruise missile, we should not plan to place that much reliance on such an untried and unproven system. It was because of this concern that the Armed Services Committee in its report on the supplemental authorization bill recommended and supported a mixed air-breathing force for the future that consisted of penetrating bombers, standoff cruise missile carriers, and aircraft that launched cruise missiles and also penetrated.

Mr. President, what became apparent to the committee was the necessity to retain the option to develop a manned penetrating bomber to both complement and eventually replace our aging B–52's. Therefore, the Armed Services Committee recommendation to the Senate included $20 million to begin development of two FB–111H prototype aircraft. This stretched and improved version of the FB–111A will be able to fly as far and as fast as the B–1 and it will be able to carry the same payload as the B–52.

In the conference, the House receded to the Senate on the FB–111H and the bill contains $20 million to begin this important prototype program. I am also pleased to note that the supplemental appropriations bill passed yesterday funded the $20 million for the FB–111H.

Turning now to other major items in the conference report, the conferees agreed to authorize four additional F–14's, but only after considerable Senate resistance. However, the Senate would not yield to the House in authorizing long lead funds for 24 more F–14's in fiscal year 1979.

Another major item was the "intercontinental ballistic missile initiatives," an item not requested but added by the House. The House bill contained $60 million for this item, and the House conferees were very adamant to retain this amount. After considerable discussion, the conferees agreed to $30 million.

The last major item I would like to comment on is the cruise missile carrier. The House bill contained $5 million for the cruise missile carrier, while our bill contained $15 million. After considerable discussion, the House receded to the Senate on this item.

Mr. President, in summary, the bill accomplishes its major purpose of begin-

ning or expediting programs now required as the result of the President's decision on the B–1. It authorizes B–52 modifications, expedites cruise missile development and procurement, provides study funds for a cruise missile carrier, and begins the development of two FB–111H prototype aircraft.

I recommend the conference report be accepted by the Senate.

Mr. BAKER. Mr. President, I thank the Senator from Mississippi for indulging me the few minutes to permit me to check the calendar.

Mr. STENNIS. I thank the Senator from Tennessee. He has rendered a real service to the Senate here.

We do have another conference report that can follow this one, if it is agreeable.

Mr. BAKER. Mr. President, I understand the Senator from Mississippi may be referring to the conference report on the bill S. 1339; is that correct?

Mr. STENNIS. That is correct.

Mr. BAKER. I would advise the distinguished Senator from Mississippi at this time that that matter is clear for consideration.

Mr. STENNIS. I thank the Senator very, very much.

Mr. President, this matter is cleared now, and the conference report was signed by all members except one who, at the time, had certain reservations, the Senator from Oklahoma, and he advised me yesterday that he was satisfied now, and he was withdrawing his reservation, although we ran into a rather complicated procedure here to get a name on a conference report after it had been filed. That matter has not yet been attended to.

I make this statement here because of authorization I have, and I think the record ought to reflect it anyway.

So with that situation in hand, the conference report was agreed to by all the other Members of the House and the Senate, and I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## ERDA AUTHORIZATIONS—CONFERENCE REPORT

Mr. STENNIS. Mr. President, if it is in order now, there is another conference report which is on the calendar from the same committees regarding the ERDA authorizations. It has been approved by the House and is up for consideration here now with a unanimous conferee agreement.

The PRESIDING OFFICER. Is there objection to proceeding to the consideration of the ERDA authorizations conference report in preference to proceeding with the HEW-Labor conference report?

Mr. BAKER. Mr. President, as I indicated previously, there is no objection.

The PRESIDING OFFICER. The Chair hears no objection, and the clerk will state the conference report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1339) to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 28, 1977.)

Mr. STENNIS. Mr. President, in view of the situation, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I thank the Senator from Washington and I thank the leaders on each side for letting us proceed to this matter at this time.

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## LABOR-HEW APPROPRIATIONS, 1978—CONFERENCE REPORT

The Senate continued with the consideration of the Labor-HEW conference report.

The PRESIDING OFFICER. The Senator from Indiana is recognized. On whose time?

Mr. MAGNUSON. I yield such time as the Senator from Indiana may desire.

The PRESIDING OFFICER. Mr. MAGNUSON yields such time as the Senator from Indiana may desire.

(Mr. CLARK assumed the chair.)

Mr. BAYH. Mr. President, I suppose every young and bright-eyed Senator who comes to the Senate filled with expectation and steeped in the lore of the Senate is impressed with the tales that are told of difficult battles that were fought both on the floor of the Senate and between the House and the Senate in conferences where there were decided differences of opinion.

I confess, Mr. President, that I was one of those. I suppose I still am. I recall stories being told of Senators chasing one another around conference tables flailing away with canes. Indeed, there are a number of stories that have been told about long and difficult disagreements.

Mr. President, we have not had any physical violence either threatened or considered among the adversaries of this body on the matter that is now before us, nor have we had similar disposition to resolve our differences between the House and the Senate in that manner.

However, I would suggest that the present impasse that has dragged on arduously and heatedly at times between the House and the Senate conferees on this HEW appropriations bill will go down in history as one of the most difficult battles that has been fought.

I want to express my deep appreciation to the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from Massachusetts (Mr. BROOKE) for the tenacity and persistence they have brought into this battle. It has not been an easy one.

As I have said before on this floor whenever this matter has been discussed, the question of when, if and how funds should be utilized, or indeed whether or not we should permit even the private practice of abortion, is, perhaps, the most deeply felt philosophical, religious and moral issue I have ever confronted.

I say that as the only Member of this body who has either had the good fortune or misfortune to preside over lengthy hearings on this subject. I shall not repeat the feelings I have expressed earlier on this subject about the reservations I had personally about abortion.

In looking at the language, I would just like to bring to the Senate's attention certain matters that I think are extremely important to be resolved, and point to these areas where I feel that the Senate's position should be retained. The protection of the health of the mother is critical, and frankly, I was very reluctant to back away from the Senate's position that the health of the fetus should be considered as well.

The dramatic evidence presented on the impact on the life of a family when a Tay-Sachs child is born was persuasive to the Senator from Indiana, and I think the Senate went a long, long way—further than I would have liked—in striking the option of abortion which should be available to a family stricken with Tay-Sachs.

However, in the spirit of compromise that is necessary I do not rise to protest that concession. But I do want to emphasize the importance of maintaining a provision relative to health damage to the mother.

We have tied this down so we are talking about physical health damage. There was concern expressed that the fact that "health" was included in an original version would be a loophole which would be too broad for the House conferees. Frankly, I do not think it is too broad in that it has been tied down to physical health damage. I could even accept the new proposal of the distinguished chairman of the House Appropriations Committee, Mr. MAHON, and add "long lasting" health damage to the requirements. We are not talking about hangnails or sore toes, as the distinguished Congressman from Pennsylvania, Mr. FLOOD, seems to take great relish in orchestrating before the conference. We are talking about serious physical problems.

We are talking about a woman who is extremely ill, and who are we to sit here in the U.S. Senate, without a doctor present, and try to determine what the

criteria are for which illness is severe enough for the mother in question and the doctor in question to make the very critical, deep-felt choice about the option of an abortion?

The other matter that has been of great significance, I think, is the question of rape or incest.

I was of the opinion that certainly we could get agreement with our House conferees on the question of rape or incest, and I must say it is the ultimate in lack of understanding when one suggests that a woman, perhaps her husband, perhaps her family of several children, and the doctor in question, should be denied an abortion on the basis of the fact that "Well, there aren't very many pregnancies that result from rape or incest."

I have to say that in this country, where we still recognize and I hope always will recognize the importance of individual rights and individual problems, it is not persuasive to me to say it does not make any difference because there are only a few. If it were my mother, my daughter, or my wife, I would not care if there was not another one in the whole United States of America. To suggest that we should strike that language because of the lack of great numbers, it seems to me, is to lack understanding, patience, and compassion. I am hopeful that the Senate will stand firm, and that we will permit that alternative to be available.

How the wording can best be decided is a matter that we are presently trying to work out with the House conferees, but I think it is important for the Senate position to stand on that, and for us to get the message to the Secretary of HEW that when we are talking about treatment for the victims of rape or incest, if indeed we have to leave the word "treatment" in there, we are talking about the option being available for a women who is assaulted in that manner to resort, if she feels in her conscience the necessity, to an abortion.

Mr. President, I am hopeful that the Senate will stand fast on this. I was the one who suggested a continuing resolution last time, as an effort to walk that extra mile as far as the House conferees are concerned, and out of compassion for the employees of HEW, who are under the gun so far as salaries are concerned. But the matter that has been proposed of another continuing resolution, putting it off until the last of November sometime, I think is very ill advised. I think we ought to stay here if we do not ever go home and resolve this matter, and not continually put it off with one continuing resolution after another. This is a very controversial matter, and one that is fraught with a great deal of political liability, as I certainly am aware, but the heat is not going to get any less as time goes on. Let us have the courage to stand here and fight this one, and not put it off day after day, week after week, and month after month.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? If no time is yielded, the time will run equally against all four sides.

Mr. BAYH. Will the Senator from Washington yield the Senator from Indiana a couple or 3 minutes?

Mr. MAGNUSON. I yield.

Mr. BAYH. Mr. President, we are working on language right now which would read as follows:

None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or except for medical procedures necessary for the victims of rape or incest, or except in those instances where severe or long lasting damage to the mother would result if the pregnancy were carried to term.

As just one member of the conferees, I feel this is an acceptable compromise. It is not as I would have liked to have seen it, but it is an acceptable compromise. I want to make it very clear, as one who has been involved in this matter for a long, long time, that in the second exception, where we are talking about except for medical procedures necessary for the victims of rape or incest, we are including within those medical procedures, within the options which would be available to a woman confronted with that tragic circumstance in the event she becomes pregnant as a result of the rape or incest, the option of abortion.

Mr. President, I will cast my vote in support of the Labor/HEW conference report, even though the language dealing with the use of Federal funds for abortion is far from my position on the issue. However, I believe that the language which has been adopted by the Senate conferees goes a long way toward meeting the House half-way on the extreme differences between the two bodies on this emotional issue.

The difficulty which has faced the Senate conferees in the three conferences on this issue is that each body has voted overwhelmingly for very different positions. The Senate has consistently maintained that there should be as few restrictions as possible on the use of Federal funds for abortion and the House would prefer to have extremely restricted use of Federal moneys for this purpose.

The language facing us today would speak to the issue in four instances. First, it repeats the language which was adopted in last year's Labor/HEW appropriations bill permitting the use of Federal funds for abortion in cases when the life of the mother would be endangered if the pregnancy were carried to term. In other words, if the woman could die if the pregnancy was completed, an abortion could be performed with Federal funds.

Second, the language would permit the use of Federal funds if abortions are necessary for the treatment of the victims of rape or incest. It is the clear intent of this language to include medical procedures for victims of rape or incest after the fact of pregnancy has been established.

Third, abortions would be permitted if the woman's physical health would suffer severe or long-lasting damage if the pregnancy was allowed to continue.

Finally, the language repeats a portion of last year's conference report permitting Federal funds to be used for drugs or devices which prevent implantation of the fertilized ovum and for medical procedures necessary for the termination of an ectopic pregnancy.

Even though this language would permit more abortions than would be allowed under the language adopted last year, the Senate is making several significant concessions to the House. Reference to permitting an abortion in cases where the fetus would suffer health damage was eliminated. This particular concession is extremely difficult for me to accept. There are over 2,000 genetic diseases. Some of these disorders which result in certain death or extreme debilitation are able to be detected by the use of a process called amniocentesis. This is true in the heart-rending case of Tay-Sachs, but there still are genetic diseases such as Huntington's disease that have no foolproof test to determine if and when it is present. However, in all cases involving the possibility that the fetus will suffer a severe genetic disorder, the language adopted today will do nothing to provide a woman eligible for medicaid the option of choosing whether or not to proceed with that pregnancy.

In addition, by including the word "physical" to describe the type of health damage a woman must face in order to be eligible for Federal funds for abortion, the possibility of coverage for mental disorders has been abandoned. I would assume that the only mental disorders which would be covered by the language before us today would be those that have the additional manifestation of physical damage to the health of a woman.

We hope that the language presented to the Senate will cover abortions in situations where a woman will not necessarily die as a result of the pregnancy but will suffer some type of impairment as a result of her pregnancy being completed. Since none of us involved in the drafting of this language are doctors, we do not know exactly what illnesses and diseases are in fact covered. Hopefully, the language is such that it will allow the option of an arbortion to a woman who would have been denied one under the more extreme requirement that she must die as a result of her pregnancy but I stress we do not know for a fact what types of illnesses will be covered by the language "severe or long-lasting physical health damage."

In short, the Senate's principle that the Congress should stay out of the business of plaving doctor has been severely altered. When the Senate adopted the language in July that would have allowed for the use of Federal funds for abortions in cases of medical necessity, it was trying to remove itself from the position of determining when the medical procedure of abortion was justified. After all, abortion in an operation and as such doctors in consultation with their patients should be the ones to determine if that is the proper treatment to follow in each individual case.

It has been my position from the beginning that a prohibition on the use of Federal funds for abortion does not belong on an appropriations bill. It is clearly legislation. Further, adoption of a prohibition on the use of Federal moneys for this purpose will not put an end to abortions throughout this coun-

try. All it will do is make it difficult or impossible for poor women to be able to choose a medical procedure that the Supreme Court has decided is the right of all women. It just says if you can pay for this procedure you may elect it but if you cannot and do not fall under our exceptions you may not use Federal funds for an abortion.

The effect of such a position was tragically demonstrated last week. A woman in Texas, upon being told that she would not be eligible for Federal funds for an abortion, went to Mexico where she could afford a cheap abortion. She obtained the abortion but she also died from the complications which resulted.

Perhaps the adoption of the Senate conferee's language will save some women from that fate but there is no way of telling how many women we will drive to the desperate position of seeking an abortion performed under less than sterile conditions or perhaps attempting to abort themselves.

My vote for this language should not be interpreted by anyone as a lessening of my belief that the decision to have an abortion performed under safe conditions should be available to all American women, rich and poor. However, I am supporting the language today because I think it will lead to the saving of more lives than the language in the fiscal year 1977 bill, but it is my fervent hope that by the time the fiscal year 1979 Labor/HEW bill is considered it will not be necessary to continue to compromise the lives of poor women. They deserve better treatment by the Federal Government and I will be working to see that they finally receive it.

With the adoption of this language by the Senate, the conferees on the fiscal year 1978 Labor /HEW appropriations bill have gone as far as we can toward meeting the demands of the House and still retain some measure of the position adopted by the Senate on three separate occasions. Hopefully the House will recognize the extreme concessions being made by the Senate in this language and will also vote to approve the conference report, allowing program initiatives in the fiscal year 1978 bill to go into effect and ending the continuing uncertainty throughout the country regarding the salaries of employees covered by the Labor/HEW bill and funding for important projects in every State.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, may I inquire if the unanimous-consent agreement limits debate on this matter to 2 hours? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. How much time has been used thus far?

The PRESIDING OFFICER. Fifty-seven minutes have expired.

Mr. MAGNUSON. Mr. President, to get the matter in motion, I move the adoption of the pending conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MAGNUSON. Now, Mr. President, I move that the Senate recede from its amendment to the amendment of the House to the amendment of the Senate No. 82.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I will now yield such time to the Senator from Massachusetts as he wishes, or to the Senator from Pennsylvania. If anyone wants time, I will be glad to yield.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. I believe the order of last evening stipulates a certain amount of time for the Senator from North Carolina.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Will the Chair advise the Senator how much time remains to the Senator from North Carolina?

The PRESIDING OFFICER. Nineteen minutes remain.

Mr. BROOKE. Will the Senator yield?

Mr. HELMS. I yield, gladly, to my friend.

Mr. BROOKE. Mr. President, if the Senator from Washington would make his next motion at this time, I would like to ask for the yeas and nays and then we can discuss the motion. Will the Senator make the motion?

The PRESIDING OFFICER. The Chair would point out that once the third motion is made, no debate is in order.

Mr. ROBERT C. BYRD. Mr. President, by unanimous consent, if the chairman wishes to proceed.

UP AMENDMENT 1040

Mr. MAGNUSON. I move that the Senate concur in the House amendment with an amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1040.

Mr. SCHWEIKER. Mr. President, we cannot give unanimous consent. I would like to have a record vote.

Mr. MAGNUSON. We will have a record vote.

The PRESIDING OFFICER. The motion can be made with the understanding that the previous debate time is in order.

Mr. BROOKE. That is the unanimous consent.

The PRESIDING OFFICER. Yes.

Mr. MAGNUSON. Mr. President, the amendment is at the desk and I ask unanimous consent that further reading of the amendment be dispensed with. We all know what it is.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, or except for medical procedures necessary for the victims of rape or incest, or except in those instances where severe or long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

Mr. MAGNUSON. This is the amendment on which we want a rollcall vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Now, Mr. President, I yield such time to the Senator from North Carolina as he wishes.

Mr. HELMS. Mr. President, I believe time does not have to be yielded to me under the unanimous-consent order. I have time in my own right. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair. Mr. President, I ask unanimous consent that Mr. Carl Anderson of my staff be granted the privileges of the floor during the discussion of this measure and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

Mr. President, the proposal of the Senate conferees presently being considered would mandate the expenditure of Federal taxpayers' money to pay for the performance of abortions when the life of the mother is endangered; when severe physical health damage to the mother would result; and in cases of rape and incest.

Although the Senate may decide to accept this proposal, Mr. President, it should be very clear what we are doing. This so-called compromise will not end the debate in Congress over the use of taxpayers' money for the funding of abortions. As long as the Senator from North Carolina has breath in him, this debate is going to continue, regardless of what action is taken by the Senate this morning. At best, it will simply delay this debate until consideration of the 1979 appropriations bill begins next year. This proposal is not a solution, it is simply a postponement. I want the record to be perfectly clear about that.

In the past, I have supported legislation which would bring a halt to the entanglement of the Federal Government with medicaid abortions. The language I introduced last year stated that no Federal funds would be used to promote or pay for the performance of medicaid abortions.

I am convinced that the decision of whether taxpayers' money is to be used for abortions is one which should be left to the States and the people through their local representatives.

Mr. President, I have made my position on abortion clear over the past several months. After all the slogans, after all the cliches, we come to the bottom

line in this debate, the deliberate termination of innocent human life. I am sure that none of us enjoys debating this issue time and time again, at all hours of the day and night, but this issue will continue to be with us until we recognize and live up to our responsibility as lawmakers to protect the lives of innocent human beings.

Obviously, I feel strongly on this issue, but I am willing to return this question to the States and the people. I have confidence that they will decide what is in the public interest; what is best for themselves, their neighbors and their community. I am happy to trust the people on this matter and let them decide.

Every indication convinces me that the American people do not want their Government entangled in the business of abortion. The latest nationwide poll, taken this summer for the New York Times and the Columbia Broadcasting Service show that 55 percent of the American people do not want their taxmoney spent on abortion.

So, I say again, I am content to have the people and their local representatives judge how their taxdollars should be spent.

I raise the question to the proponents of abortion: Are they willing to say the same thing?

Mr. President, I am going to ask unanimous consent that two items be printed in the RECORD in full, but I want to quote from them, because they address themselves to issues that have been raised and some obfuscations, especially concerning so-called "long lasting physical health damage to the mother." They are a mailgram and a letter from Dr. Matthew J. Bulfin of Lauderdale By The Sea, Fla. The portion I shall read is as follows:

In general the mere existence of kidney disease does not constitute a medical indication for abortion.

Parenthetically, Mr. President, so often that this is advanced by proponents of abortion-on-demand as a medical reason to terminate an innocent human life, but it is simply not so. As Dr. Bulfin says:

Thousands of women with kidney disease can successfully be carried to term and deliver healthy babies. There is no question about this. Patients whose lives are in jeopardy from severely diseased kidneys even when they are not pregnant will often miscarry when they do become pregnant. Nature solves their problems. Women with severe kidney disease who become pregnant are often not served best by an abortion operation. The death of a woman in Massachusetts in 1975 following legal abortion for severe kidney disease is described in the New England Journal of Medicine April 1, 1976.

Then Dr. Bulfin goes on to say, in response to another excuse so often advanced to justify the termination of innocent human lives:

Multiple sclerosis is a progressive disease of the nervous system characterized by remissions and exacerbations. Hundreds of women with multiple sclerosis carry their babies to term and deliver uneventfully each year in our country. Both mothers and babies do very well more often than not. One week ago in Fort Lauderdale I delivered a patient with long standing multiple sclerosis. She and her baby both are doing very well. Abortion is by no means universally recommended for the patient with multiple sclerosis.

Mr. President, I ask unanimous consent that the entire mailgram from Dr. Bulfin be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, in an earlier letter to me Dr. Bulfin, has this to say in part:

I personally have on file in my office in Ft. Lauderdale, Florida the case reports of 52 patients that I have seen with significant complications following their legal abortions—complications ranging from bowel resection and colostomy to irreversable infertility from far advanced pelvic abcess.

I am currently taking care of a 20 year old patient who spent 11 days in the intensive care unit of a local hospital following a septic abcess and peritonitis incurred during a lunch hour type legal abortion in the South Florida area in April of this year. This patient quite possibly would have died 10 or 15 years ago not because her abortion would have been illegal but because the new antibiotics that saved her life were not available then. Her death then could have been attributed to the "back alley butcher."

I ask unanimous consent that the entire letter dated June 27, signed by Dr. Bulfin, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. HELMS. I thank the Chair. I reserve the remainder of my time.

EXHIBIT 1

FORT LAUDERDALE, FLA.

Senator JESSE HELMS,
*Russell Senate Office Building,*
*Washington, D.C.*

As an obstetrician who is actively practicing his specialty I would like to offer the following observations regarding abortion as a solution for pregnant women with serious problems.

In general the mere existence of kidney disease does not constitute a medical indication for abortion. Thousands of women with kidney disease can successfully be carried to term and deliver healthy babies. There is no question about this. Patients whose lives are in jeopardy from severely diseased kidneys even when they are not pregnant will often miscarry when they do become pregnant. Nature solves their problems. Women with severe kidney disease who become pregnant are often not served best by an abortion operation. The death of a woman in Massachusetts in 1975 following legal abortion for severe kidney disease is described in the New England Journal of Medicine April 1, 1976.

Multiple sclerosis is a progressive disease of the nervous system characterized by remissions and exacerbations. Hundreds of women with multiple sclerosis carry their babies to term and deliver uneventfully each year in our country. Both mothers and babies do very well more often than not. One week ago in Fort Lauderdale I delivered a patient with long standing multiple sclerosis. She and her baby both are doing very well. Abortion is by no means universally recommended for the patient with multiple sclerosis.

Pregnancies from incest are usually not diagnosed until four or five months have past by when the more dangerous late abortion techniques must be resorted to.

Pregnancies resulting from rape should be non-existent with the present status of medical care. If the rape victim is given adequate treatment within 12 hours and the stilbesterol morning after pill is prescribed, pregnancy can be avoided completely.

Ectopic pregnancies must be managed by surgical removal of the affected tube, otherwise the mother will die of internal hemorrhaging. The embryo in the tube has no chance of survival either way. There is no medical or moral conflict with ectopic pregnancy. Surgery is the treatment.

The pregnant female with severe medical illness whether it be kidney disease or multiple sclerosis is often in just as much danger from the operation of abortion as she would be from delivery of a baby.

Abortion to truly save the life of the mother is a right certainly not to be denied but an obstetrician could practice a lifetime without ever seeing one instance when an abortion ever saved a patients life.

MATTHEW J. BULFIN, M.D.,
*Obstetrician and Gynecologist.*

EXHIBIT 2

JUNE 27, 1977.

DEAR SENATOR: Enforcement of the Hyde Amendment will not send women hurrying to back alley abortionists. What has actually happened in our country since the Supreme Court decision of January 1973 is that millions of women emboldened by the new "what is legal is right" mentality have chosen to destroy their unborn for the most frivolous of reasons. Hundreds of thousands of women have rushed headlong into quick easy lunch hour type abortions without ever consulting with a physician beforehand.

The sacrosanct privacy decision though highly espoused by the Supreme Court seemingly does not exist in the majority of instances. Most women do not see the physician until the abortion is to begin. He is merely the technician doing the operation, he is not the patients confidente, he is often not the one who sees her complications.

I personally have on file in my office in Ft. Lauderdale, Florida the case reports of 52 patients that I have seen with significant complications following their legal abortions—complications ranging from bowel resection and colostomy to irreversible infertility from far advanced pelvic abcess.

I am currently taking care of a 20 year old patient who spent 11 days in the intensive care unit of a local hospital following a septic abcess and peritonitis incurred during a lunch hour type legal abortion in the South Florida area in April of this year. This patient quite possibly would have died 10 or 15 years ago not because her abortion would have been illegal but because the new antibiotics that saved her life were not available then. Her death then could have been attributed to the "back alley butchery."

The thousands of women dying annually from the "back alley abortions" never really did occur in the inordinately high numbers so quoted. Careful studies of illegal abortion death in such states as Minnesota and Illinois during the mid to late 1960's reveal no more than 2 to 5 deaths in any one year.

The women who died from illegal abortions in those years died from sepsis, peritonitis and hemorrhage.

If the physicians who did the illegal abortions in years gone by had the same antibiotics available then that are now available many of those women who died at the hands of those "back alley abortionist" may not have died.

We as obstetricians and gynecologists do not envision any great increase in the number of maternal deaths should abortion again be declared illegal. The physicians who would continue to do abortions without legal protection would have all the life saving antibiotics available to them and their patients with serious complications would certainly not be denied good hospital care.

The number of women rushing headlong into the abortion operation would probably

stop and think twice about it when the operation would no longer have governmental sponsorship and sanction. These women might even learn to avail themselves of one of the numerous methods of birth control that are so readily available—and best of all they might even save two lives—their own and that of their unborn child.

Sincerely,

MATTHEW J. BULFIN, M.D.

Mr. BROOKE. Mr. President, I yield myself such time as I may need.

I hope that we are finally at a point where we can resolve the controversy over medicaid payments for abortion. The abortion controversy has been raging, quite literally, for months. We were fighting over this issue in June. Here we are now, still battling over abortion as we approach Thanksgiving.

This epic struggle has had far-reaching effects. It is holding up the passage of the $60 billion Labor-HEW appropriations bill, which affects just about every person in this country. The pay of hundreds of thousands of Federal, State, and local employees is threatened by this continuing controversy. For hundreds of thousands of other Americans, their health care, their education, and their other human needs are put in danger by the failure of the House of Representatives and the U.S. Senate to resolve differences and pass this vital bill.

Mr. President, the Senate conferees have been trying to do exactly that, to achieve a reasonable compromise, but also one that is humane.

I want to commend my distinguished chairman, the Senator from Washington (Mr. MAGNUSON), who month after month, week after week, day after day, hour after hour, has presided over meetings between the House and Senate conferees in a genuine attempt to draft language which would be a reasonable and humane compromise.

I personally have great admiration, respect and affection for him. I have said so on this floor many times. Each time that I work with him on matters such as this, if possible, my respect grows even more, because he has tried in his unique manner to be fair, to be equitable, to listen to both sides of this issue. And he has attempted to forge a compromise that would be workable without destroying the principles in which he so strongly believes and at the same time giving due respect to the principles which the other side so strongly believes, as well.

Mr. President, the compromise now before us is, we believe, both reasonable and humane. The substance was unanimously approved by the Senate conferees late yesterday and we have refined it still further.

In seeking this settlement of differences, the Senate has, I believe, gone more than half-way in making concessions to the House. The conferees have gone far further than I would have had them go, Mr. President—let there be no doubt about it—because I believe that our original position was the right position.

Yet I know that that position, as right as it was, was not a position which could have been accepted by the House, or would have been accepted by the House, in an effort to bring this matter to a conclusion.

The Senate has weakened its language covering abortions to protect the health of the woman. The Senate has dropped such phrases as "medically necessary"—a phrase which I inserted into the bill, and which was passed on the floor of the Senate overwhelmingly on several occasions.

The Senate has dropped "serious health damage," language which the distinguished chairman put into the bill in an attempt to make a compromise; and the Senate has acceded to a House request for the more restrictive word "severe" and the still further restrictive words, "long-lasting."

The Senate may have dropped reference to mental illness by agreeing to the word "physical" in reference to the health of the woman.

Mr. President, I will never agree that mental illness can be separated from the physical condition of a woman. The ambiguous word "physical" was part of the price for an agreement with the House, and the Senate, unfortunately, paid that price.

Mental illness is just as serious an illness as physical illness, we all know it, and there can be no justification for dropping mental illness from the coverage of this provision. The Senate again has paid the price in an effort to bring about some compromise with the House of Representatives.

The Senate was adamant in its concern for the health of the fetus, knowing that there are several thousand genetic diseases which can afflict the newborn child. The House would hear nothing of language to cover the fetus, even where an abortion was definitely indicated.

Again, the House won. The Senate dropped any direct reference to the fetus.

Oh, it did it reluctantly, but it did it again in an effort to compromise with the House of Representatives.

The House conferees did at one time make some concessions on rape and incest, and even there, they withdrew them. They returned to the harsh provisions that they had before.

For example, the House still clings to the requirement that victims of rape and incest be required to report to a law enforcement agency before they can get payment for certain medical procedures.

Mr. President, we all know that when a woman is the victim of rape, or a child is a victim of incest, that it is a stigma, that it is embarrasing, that it is humiliating and degrading, and we know that many, many cases are never reported. Families will not let their daughters go to a law enforcement agency and make a report that they have been raped, or report that a child has been a victim of incest. Yet, the House wanted to hold firm to that language, denying that child, or that girl, or that woman, an opportunity to have an abortion if she needed it if she were raped, or if she were a victim of incest, causing her to have to go to a law enforcement agency before receiving help and make a report about it.

The House would also continue to bar any assistance for underage girls who may be raped or may be assaulted by a parent and become pregnant. Their language would limit assistance to victims of "forced" rape and deny it to victims of statutory rape.

Mr. President, we know that, unfortunately, there are many cases of statutory rape. In other words, the House illogically is saying, "Oh, it's all right to help a woman above the age of consent who is raped, but if it is a child, a female child that is raped, or is a victim of incest, then that female child cannot have an abortion." That would be the effect of demanding that the word "forced" be included—unconscionably included—in the language of this bill.

Mr. President, one House concession turned out to be no concession at all.

The House announced it was abandoning its language to provide payment for medical procedures only if provided before the fact of pregnancy was established. On its face, that could be an important concession because, otherwise, it might require women to undergo unnecessary surgery or take drugs they did not need.

However, the House really was saying that in a case where there is rape or incest, only before there is a determination of pregnancy and only after there has been a report to a law enforcement agency, could the woman get a D and C, even if it later turns out that she was not pregnant and did not even need the D and C.

Think of the number of women who would have to submit to an operation. A D and C is an operation. It is easy for a man to say that it is a minor operation. That is because a man does not have to have one. Any operation like this is a major operation. Nothing of this magnitude is a minor operation.

Yet, the House consistently has stood on its position, claiming that in these cases of rape and incest, the women could have the treatment for that rape and incest through a D and C, only prior to the determination of pregnancy.

Look at the HEW ,regulation which states how the Department interprets the word "treatment." The regulation states that treatment of rape or incest victims "is limited for these purposes to prompt treatment before the fact of pregnancy is established." So it is clear that the House concession gains the Senate absolutely nothing.

Under the House language, HEW still will permit reimbursement for "treatment" only before the fact of pregnancy is established. There will be "treatment," but there will be no abortions for such unfortunate women if the House and the Department of Health, Education, and Welfare have their way.

Mr. President, the Senate cannot be this callous to the victims of rape and incest. The Senate is willing to compromise, but this goes too far. I believe that the majority of our Senate conferees—in fact, all of them present—yesterday voted to include further language to take care of victims of rape and incest. The language before us provides an exception "for medical procedures necessary for the victims of rape or incest."

Mr. President, the hour is late. As I said, I hope we can come to some compromise. This is an important bill; but no bill we pass in the Senate or in the

House of Representatives or anywhere else in this country is more important that life itself. Nowhere, under any circumstances, must we accept a compromise that jeopardizes the life of a woman, any woman, even if it is one woman; and here we are talking about literally thousands of women who may be forced back to the old back alley abortions.

Just the other day, we had a reported case of a back alley abortion in which a woman died. She had to go to Mexico to get an abortion which she could not get in her own State, because she could not receive medicaid funds. She had a medicaid card in her pocket. She died as a result of the abortion.

We talk about preserving life. We are not preserving life; we are taking life.

Mr. President, this is a compromise. I often have heard that politics is the art of compromise. Never before have I had so sharp a lesson as I have had in this case.

I do not know whether the House even will accept the language we are going to vote upon today. It is difficult for me to vote upon it, Mr. President, for obviously different reasons from those of the House. If the House does not accept this language, God save them. I do not know what they possibly could accept or possibly want.

Mr. CASE. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. CASE. Mr. President, I thank my beloved colleague for yielding. I agree with everything he has said. My sentiments with regard to voting on this compromise are identical to his. But it is a magnificent gesture. To him and to the Senator who chaired the subcommittee, Senator MAGNUSON, and to the staff on both sides of the aisle goes the most enormous credit.

Nobody ever doubted the compassion of the Senators in this matter. Nobody possibly could doubt that. A most extraordinary example of patience and fortitude and persistence has been shown in this matter, unequaled in my experience.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute.

I thank the Senator from New Jersey and the Senator from Massachusetts. This has been a long, hard road, and we hope that we might resolve the matter today.

I associate myself with the remarks of the Senator from Massachusetts, who eloquently stated this morning my position in this matter.

There is a lot of irony in this matter, Mr. President. There was a group of 10 to 12 men—all men—sitting in a room, deciding probably one of the most important matters in the life of a woman. The irony, also, is that neither the House nor the Senate heard even one witness. We did not have any testimony from anyone. We did not hear any medical testimony. We do not have any figures. Yet, we had to pass on this matter, which, as I have said often on the floor of the Senate, did not belong in the bill at all.

I hope this will be the last year we have this matter. We are not through with it yet. But we did a lot of compromising. I think we went more than halfway.

As the gentleman from Texas said yesterday, in a Texas expression, "You have given away half the farm already. You better not send that fellow to the big city anymore. He'll give it all away."

I think that the House, in all fairness, should accept this amendment. As the Senator from Massachusetts has said, thousands of people are involved. Many programs are involved. I suppose that every person in the United States is involved in this $60 billion HEW bill.

I hope—and I will not take any more time, because time is running out—that the House will accept this language. If they do not, I do not know what we are going to do. It will be up to them. I think we have given them something that is more reasonable, something humane, to meet the problem, and much more than two-thirds of the Senate wanted to give to the House conferees.

So I hope we can get this matter to the House and see what they will do with it.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HELMS. I yield 1 minute of my time to the Senator from Florida.

Mr. CHILES. I thank the Senator.

Mr. President, it is my understanding that one of the provisions that the House was concerned about was sort of a compromise. We were talking about staying away from the word "permanent" and the House wanted the word "permanent."

I understand that Chairman MAHON said at one time that perhaps we could put in the words "long-lasting" in exchange for "permanent." I think we have attempted to do that. But when we say "or except in those instances where severe or long-lasting physical health damage," I am afraid that when we have the word "or" in there, we have not really given much, because you can go back to "severe" if you wish, and I think that might cause problems in the House.

I suggest that it would be more in keeping with what they were talking about if we had "severe and long-lasting."

I ask unanimous consent that we be able to modify that, to use the word "and."

I think that would be more in keeping with the compromise and would give Chairman MAHON a better provision for the substitution. I suggest that to the distinguished Senator from Massachusetts. That would be more in keeping with what Chairman MAHON was suggesting.

Mr. BROOKE. Mr. President, reserving the right to object, I will have to concede that the distinguished Senator from Florida is correct with respect to what Chairman MAHON had requested when he requested that the words "long-lasting" be included, because the House had been insisting that the physical damage to the mother be permanent. I have fought that strongly. Chairman MAGNUSON has been opposed to the word "permanent," and others of us were opposed to the word "permanent." We did not want to put "permanent" in there.

I think that Chairman MAHON, in an effort to get the House to move on this, wanted some language which would not mean that it would be of a fleeting, temporary nature and, therefore, that the language "long-lasting" be included.

The "long lasting" that I take it that he intended was not to be an either/or situation but an "and"—"severe and long lasting" rather than "either/or."

Mr. BAYH. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. BAYH. It was my understanding that "or long lasting" was specifically brought over here as the Mahon proposal.

Mr. BROOKE. That was the confusion, and it was presented to me that way also, but the Senator from Florida has talked with the chairman, and it is his opinion that it is "severe and long lasting."

And if it were not, then their position is that "long lasting" would be of no significance at all.

The PRESIDING OFFICER. The Chair will point out that all of the time of the Senator from Washington and all of the time of the Senator from Massachusetts have expired. The only Member who still has time remaining is the Senator from Pennsylvania.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that we may proceed on this matter for an additional 10 minutes.

Mr. SCHWEIKER addressed the Chair.

Mr. BROOKE. Mr. President, I had 30 minutes. I have not used 30 minutes.

The PRESIDING OFFICER. The Senator has used 30 minutes.

Does the Senator from Pennsylvania yield time?

Mr. SCHWEIKER. Yes. I yield some of my time.

How much time does the Senator wish?

The PRESIDING OFFICER. The Senator from Pennsylvania has 19 minutes remaining.

Mr. SCHWEIKER. I will yield 5 minutes.

Mr. MAGNUSON. All right.

Mr. BROOKE. We are trying to resolve that.

I cannot help the Senator from Indiana any further. I just do not know. I thought the language as we saw it that was presented this morning was "severe or long-lasting."

The Senator from Florida has now stated that chairman MAHON wants "severe and long-lasting." Of course, that is different. That puts both of them as prerequisites in this case.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. BAYH. Earlier this morning we were looking at some specific language that had been referred to us, the "or long lasting," to strike "prompt" I suppose as a concession to us, and also to strike the phrase that we thought was so important and relative to after pregnancy had been discovered. Those are not the exact words.

Mr. BROOKE. Determination.

Mr. BAYH. And also the rigorous enforcement and the refinement there, of

course, I think deals with it. It gives them rigorous enforcement. It reorganizes it so that the matter of discovery of pregnancy is no longer a question. The word "treatment" was stricken, but we do have, as the Senator from Florida pointed out, the questionable language there. In my opinion, if that is all between us and the acceptance by the House, then I suppose just as one member of the conferees I would be willing to give but if not——

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. BAYH. If we are giving away another 40 acres, there is not much left but the windmill.

Mr. BROOKE. I wonder how much of the 40 acres is left.

Mr. MAGNUSON. We do not have too big a farm.

Mr. BROOKE. That is right. We turn around and another 40 acres are gone.

Mr. MAGNUSON. And we are getting no relief from Congress on our short crop these years, with the drought, and we are in bad shape.

Mr. BAYH. All you have is help to run the windmill.

Mr. BROOKE. I also point out to the Senator from Indiana and the Senator from Florida that we have no assurance even that this is going to pass the House of Representatives, that they are going to accept it.

Mr. CHILES. That is absolutely correct, that we do not have that assurance. But I think when we start talking about the crops, one of the things we are talking about is whether we can get any crop insurance or not, and the best crop insurance I know of planting a crop in the other side of the farm, the farm down at that end, is to have the chairman of the Appropriations Committee watering the crop. Now he has said he wanted the word "permanent." We said he could not take that, or we would not take that, and he came back with the word "long lasting."

Mr. BROOKE. And we gave him "long lasting."

Mr. CHILES. But we are not giving him anything if we put it in with "or" is what I am saying. If we put it in with the conjunction "or" we are not giving him anything.

Mr. BROOKE. "Long lasting" is going to appear as language in the bill so that would be one of the criteria "long lasting." It would be severe or long lasting. We gave up "serious" for "severe." Now he wants "long lasting." We are giving him "long lasting" and now he wants an "and" put in it.

We are letting the House of Representatives write our bill for us over here.

Mr. MAGNUSON. Mr. President, there is a unanimous-consent request of the Senator from Florida to add the word "and," and I understand there is going to be an objection.

The PRESIDING OFFICER. Is there objection?

Mr. BROOKE. I have to object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. BROOKE. In all good faith, I say to my distinguished colleague from Florida I know what he is doing, but I feel I have to object.

Mr. MAGNUSON. The Senator from Pennsylvania wants to speak on this matter, and he has his own time. Then I hope we can vote.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, I yield my self 3 minutes.

Mr. President, I rise in opposition to the motion which is to concur in the House amendment with Senate amendment that is pending. The House amendment that we are changing, of course, I offered previously, and in a vote we were defeated by this body on that House language 59 to 33.

So I realize that the chairman and ranking minority member of this committee have the votes to put through this motion that is ahead of us. But I think it is important for us to be accountable for our actions, and I appreciate the opportunity to have a record vote which we are going to have on this matter.

I compliment the good faith of the other side. The chairman and ranking minority member have certainly been courteous to me as a leader of the opposition in this matter, and they have been very open and direct in what was done.

We obviously have very strong differences that are very difficult to resolve. While they made a good faith effort to resolve it, I in good conscience cannot support what they are offering here today.

But their good faith and their sincere efforts are certainly to be commended, and unlike some other conferences that have had a great deal of acrimony and bitterness, the Senate conferees, even with wide divergence of opinions, have kept some kind of good relationship.

Second, Mr. President, I compliment the distinguished Senator from North Carolina for his leadership in this field. Although he has not been on the conference, he has been a very stalwart, very articulate, and very effective proponent of the point of view which I support, and he has done a significant job in leading this effort nationally and in his own State.

I certainly concur with the points that he has made in this debate. I think we have all heard plenty of debate and discussion on this matter, so I am not going to talk very long except to say I am opposed to this motion and will vote against it as a matter of conscience. I am prepared, Mr. President, to yield back the remainder of my time if no one else wants any additional time.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from North Carolina.

Mr. HELMS. Mr. President, I am, of course, grateful to my distinguished colleague from Pennsylvania (Mr. SCHWEIKER), I greatly admire the courageous and forthright stand he has taken on this vital question.

Equally, I have the highest respect for the distinguished chairman, Senator MAGNUSON, and the ranking minority member, my friend from Massachusetts, Senator BROOKE.

We disagree on this matter, sometimes heatedly. But the good faith on both sides, I think, has been apparent.

Having said that, Mr. President, I feel obliged to say a few words in response to the eloquent comments by the able Senator from Massachusetts with respect to victims of rape and incest.

Insofar as all of the statistical material and information available to me is concerned, this is a red herring. Perhaps there are surveys and studies about which I have no knowledge, but every scintilla of evidence available to me indicates that as a practical matter the problem of pregnancy following rape or incest is almost nonexistent.

Mr. BAYH. Mr. President, will the Senator yield for a question?

Mr. HELMS. If the Senator will let me finish my statement—

Mr. BAYH. I am just referring to the reference by the Senator.

Mr. HELMS. Studies of thousands of cases of rape in both New York State and the State of Minnesota reported not one resulting pregnancy over periods as long as 30 years. Mr. President, I repeat, 30 years, and not one pregnancy was reported as a result of rape.

Dr. Carolyn Gerster, of Arizona, observes that there are two irrefutable arguments against making an exception for rape and incest: first, pregnancy from reported medically treated rape is zero—zero, Mr. President, rendering the exception clause unnecessary.

Second, unreported rape, after all evidence has disappeared and without corroborating witnesses, cannot be proved, rendering the law exception clause unenforceable.

So I would say, Mr. President, rather than promote abortion in cases of rape we should encourage victims of rape to seek medical attention and to report the offenses.

I am the father of two daughters, whom I love dearly, and the thought of rape is just as abhorrent to me as to any other Member of the Senate. But we must not let a red herring mislead us. I hope that increased attention on this point will lead to improvements in society's treatment of rape victims. My heart goes out to these women, and I, for one, favor the continuation of capital punishment for a rapist.

A society which promotes justice as well as compassion will support the severest possible penalties for the rapist, and more humane treatment for the victims of rapists. We should not allow the unsupported claim of rape to be an excuse for abortion as this proposal does. Even assuming for a moment that in an extremely rare case pregnancy does result, can we encourage the killing of the innocent child just because he or she was conceived during the criminal act of another?

Mr. President, I shall conclude in just a moment. The distinguished chairman of the subcommittee commented on the fact that it was a group of men who sat in conference to settle this question. That is true. He implicitly wondered where the representatives of the women were. But

I would add a further question: Where were the representatives of the innocent unborn children whose lives may be terminated at the expense of the taxpayers? They, to me, are paramount, Mr. President. If there is one Senator in this body who can persuade me that abortion is not the deliberate termination of innocent human life, then the Senator from North Carolina will withdraw from the field, and there will never be another syllable uttered by him on this question. That is what we are talking about, Mr. President. We are talking about the termination of innocent human life, and using tax funds to do it.

Some time back on this floor I mentioned a visit that I made to the children's ward of Duke University Medical Center in my State. It was a Sunday morning, and I went to the intensive care unit, and I was given a white gown and a mask for my face, and I went with the highly trained physicians and nurses as they proceeded to perform their vital duties.

I saw row after row of tiny babies lying there, being sustained by the most sophisticated and expensive equipment that technology can provide, little babies, some scarcely bigger than my hand.

Then I went across the hall to a waiting room. There I saw young couples down on their knees praying that the little lives across the hall in that intensive care unit would be spared.

The very next day, Mr. President, I came back to this Senate and what did we have? We had the argument that we should use the taxpayers' money to terminate the lives of innocent human beings precisely like the little ones I had seen the day before in that hosiptal.

My heart goes out to women who become pregnant and then decided they wished they had not participated in the activity that caused it. But there are other remedies available to these women beside abortion, Mr. President.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HELMS. I would like to finish this thought first. My time is running out. Perhaps the Senator can obtain time from a Senator who, like the Senator from Indiana, favors the use of the taxpayers' money to finance abortions.

Mr. BAYH. I wanted to help answer the question.

Mr. HELMS. Mr. President, I reiterate that it is abhorrent to me that we should have to continue to come to this floor day after day, week after week, and even debate the question of whether taxpayers' money should be used for the deliberate killing of innocent babies.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

The Senator from Pennsylvania has 11 minutes.

Mr. SCHWEIKER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. BAYH. Mr. President, will the Senator yield me 30 seconds? I did not want to get into an argument with the distinguished Senator from North Carolina because he and I are well aware of our differences. The question goes not to our love or respect for human life. I would just suggest that anyone who wants to see the recorded record of pregnacy as a result of incest and rape perhaps should read the only hearings that Congress has ever held on this, because witnesses who came before our hearings indeed pointed out that such pregnancies not only had existed, but provided a great deal of pain for the families involved.

Mr. BARTLETT. Mr. President, will the Senator from Pennsylvania yield me a minute or two?

Mr. SCHWEIKER. I yield 2 minutes to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I believe I was the first one to sponsor an amendment to an HEW appropriations bill that would prohibit the Federal funding of abortion.

The main issue, of course, is whether or not the citizens of this country want to pay for the abortions, and I think it is very clear that they do not.

There is an associated issue also as to just how one feels about abortions, and I know in the early days of the discussion there was a question of whether human life was involved, and the debate has gone beyond that now.

But I think the amendment that has been passed in the House does provide relief because of incest and rape for those who seek immediate attention, who are involved in those kinds of unfair, unjust, and savage attacks.

I think that the value of life in this issue must be overriding. For a Nation that wants to finance the taking of the lives of its own children on, I would say, a very promiscuous and promoted basis, as has been done, and in which the numbers are not kept, in which the figures are not made known to the general public, in which the authorization was never made by Congress, I think it is a sad commentary on this Nation to permit that to happen.

So I think that the fight that the Senator from North Carolina has made on this issue is a most commendable one, and I commend him for his stick-to-itiveness and his desire to see that human life be protected. I agree very strongly with him on this matter. I believe that this view will finally prevail, and hope that those who have opposed it will see that it is far more important for this Nation to have a high regard for human life and the dignity of life.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). The time of the Senator from North Carolina has expired.

Mr. SCHWEIKER. I yield the Senator 1 minute.

Mr. HELMS. I thank the Senator from Pennsylvania.

Mr. President, my friend from Indiana (Mr. BAYH) mentioned some statistics purportedly related to the large number of pregnancies resulting from incest or rape.

I would point out to him, as I am sure he knows, that these statistics are not an actual count, they are merely estimates. They are based on the number of rapes reported annually to the FBI. The pregnancy figures which he has called to our attention are estimates or, if you will, projections from the FBI statistics on the basis of the regular national fertility figures for normal pregnancies.

I might add that I am familiar with the hearings to which he referred and these estimates were provided by those who favor abortion and public funding of abortions. Not one actual case was cited; it was purely hypothetical arithmetic, and I reiterate that I know of no statistics showing pregnancy as a result of rape.

I thank the Senator from Pennsylvania for yielding to me.

Mr. PACKWOOD. Mr. President, unfortunately I will no longer be able to support my colleagues in their efforts to find a provision restricting Federal funds for abortion which will be acceptable to the House. It has become clear over the past few months that the House is unwilling to pass language that shows any degree of fairness, humanity or compassion for poor women. The Senate has compromised and compromised and compromised. In the language presently under consideration, I think we have carried our compromising far beyond the point at which I can in good conscience continue to lend my support.

When the issue first arose this year, I took the strong position that the Federal Government should provide funds for all medicaid abortions. When the Senate voted in disagreement with this position, I reluctantly supported the compromise which provided Federal funding only for those abortions deemed medically necessary. Since the Supreme Court defined medically necessary abortions very broadly in 1973, this language did not violate my beliefs on this issue too severely. To clerify, I do very firmly believe that abortion should be a strictly personal decision made between a woman and her doctor, and that all women, regardless of financial status, should have equal access to this medical service.

In the language being considered today, however, we harshly limit Federal assistance to only those cases where the women would suffer "severe or long-lasting physical health damage" from the pregnancy. There are many in-between cases that would be ignored by this provision, and these women would be forced to carry their pregnancies to term bearing needless suffering simply because it was neither severe nor prolonged enough according to someone else's standard.

More importantly, this provision fails to provide coverage for women suffering from mental illness. I think we are in grave error to try and distinguish mental health from physical health, for often the two are closely tied. And surely the birth of an unwanted child can be as crippling to a mentally ill woman, not to mention the child, as to a woman with serious physical problems.

The National Women's Health Organization has prepared a number of case studies on medically necessary abortions, abortions for severely disturbed and disoriented women, women who by no stretch of the imagination should be

forced into motherhood. I hope this report will help my colleagues to understand that these kind of cases are not hypothetical, they exist in all their sad and desperate reality. I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORTS ON MEDICALLY NECESSARY ABORTIONS

INTRODUCTION

The following case studies are gathered from more than 40,000 cases seen in the clinics listed in the years since 1973. They are representative of the kinds of cases seen as medically necessary, and cover a wide range of sociological problems seen in abortion clinics. All are documented.

MILWAUKEE WOMEN'S HEALTH ORGANIZATION, MILWAUKEE, WISC.

1. S.M., 19, Unmarried. Referred from Methadone Hospital at County Hospital. History of addiction since age 14. Severely disoriented and disturbed. Prognosis on methadone not good. Found to be 10 weeks pregnant. Threatens suicide if forced to continue pregnancy.

2. C.G. Referred from Half-Way House following release from Delinquent Girl's Home. Has been abused child, covered with cigarette burn scars, etc. Removed from home at age 12, lived in foster homes. Charged with shoplifting at age 14, ran away from home at age 14½. Picked up for prostitution, age 15. Put in Girl's Home for six months, released to half-way house. Became pregnant at age 16. History of drug abuse, heroin addiction. No way of determining the potential father.

3. H.P., 29. Mother of seven. Unmarried at this time. Severe varicose veins in legs. Had IUD inserted after seventh child to prevent future pregnancy. Pregnant with IUD intact. Physician advised that continued pregnancy would cause permanent disability. Plans are being made to place children in foster home.

4. C.L., 29 years old. Diabetic, married. Two-year old child weighted 10½ pounds at birth. Small birth canal made delivery extremely difficult. Problems with prolapsed bladder following delivery, advised by physician not to become pregnant again. Doctor refused to perform tubal ligation at that time, however, due to patient's age. He prescribed oral contraceptives, which interfered with diabetic treatment. Ceased oral contraceptives, immediately became pregnant.

5. T.P., age 14. Brought to clinic by mother. Had been sexually assaulted by step-father from whom mother is separated. T.P. is borderline IQ, 85–90.

CENTRAL FLORIDA WOMEN'S HEALTH ORGANIZATION, ORLANDO, FLA.

1. P.T., age 12—7th grade. Straight A student, had just undergone kidney surgery. 15 year old brother had had intercourse with her several times while parents were out of house. At this time, she was 5 months pregnant. Parents were professional people in community.

2. S.W., age 20, case No. 7475. Her face was bruised and swollen. She related that her husband had beaten her last night (a common occurrence) and she had left him. Her family was up North and she had had no contact with them for several years. She had no money, no place to go, and she had her 8 month old baby with her. She was 8 weeks pregnant and requested an abortion as she felt she could not cope with another child at this point in her life. A D&E was performed at no charge. She was referred by our social worker to Spouse Abuse program and to the local welfare department.

3. S.S., age 29, case No. 3673. Her husband had left her and their 2 children a year ago and she had been living on welfare since. She had never worked before, had married young due to pregnancy. She had recently enrolled in a drafting course thru HRS's Work Incentive Program and knew she would be terminated from the program if the pregnancy were continued. She had forgotten one birth control pill and was 10 weeks pregnant.

4. K.T., age 19, married, case No. 7473, pregnant for the first time. For past 6 months, K.T. has been having black-outs. Doctors have not been able to determine cause of these yet, but have done extensive x-rays and have had her on several fetal-damaging drugs. K.T. and her husband would have liked to continue pregnancy, but her doctor strongly urged her to terminate pregnancy because of the strong possibility of fetal deformity.

5. M.H., age 27, case No. 7392, mother of 2 (ages 6 and 16 months). Her husband was a schizophrenic alcoholic who had committed suicide on her birthday 3 weeks before. She had no means of support (she had recently applied for AFDC) and had moved into her mother's home. She was overwrought by her husband's death and felt she could not emotionally or financially handle a third child at this time.

6. T.O., age 19, case No. 7391, mother of 16 month old baby, came into the clinic requesting an abortion. She had married due to pregnancy at age 17, was recently separated from her husband. She had found a job as a waitress, but felt continuing pregnancy would make it impossible for her to stay off welfare.

7. C.S., age 26, No. 7776, came in requesting an abortion. She had had a previous illegal abortion in Boston in 1969. The abortion was done by a medical student who raped her before performing the abortion.

NORTH JERSEY WOMEN'S HEALTH ORGANIZATION, WAYNE, N.J.

1. B.H., 28 years, married. Patient has two children, recently separated from husband for three month period, was recently reconciled. She was raped at gun point shortly after the reconciliation. She did not press charges, as she felt that would jeopardize the reconciliation, chose abortion because she felt that this would destroy any chance of marriage.

2. D.L., 33 years. Currently being tested for lupus, and is on medication which is contraindicated for pregnancy. She was on contraceptives which failed. Pregnancy could complicate lupus treatment.

3. K.P., 19 years old. Patient severely emotionally disturbed. Has given one child up for adoption. On mood medication at present time, private physician recommended abortion, and institutional rehabilitation.

4. S.L., 22 years old. Three year old daughter, severely retarded and born microcephalic. Daughter requires 24 hour care, which she and ex-husband share. Both are extremely attached to child, and refuse to institutionalize her.

5. Y.B., age 13. Lives with mother and stepfather. Was raped by stepfather who threatened to kill her if she told her mother. Mother found out, brought her in for abortion. Y.B. very young, immature, did not seem to realize consequenzes of situation.

COLUMBUS WOMEN'S HEALTH ORGANIZATION, COLUMBUS, GA.

1. V.H., age 13, single. Has 10 month old infant, product of incest, who is retarded. This pregnancy also the result of incest. Very scarred, lacerated cervix.

2. S.C., 13, single—Dougherty County. Six weeks pregnant. Patient has no family, remained at Girl's Home in Columbus, Ga. Social worker advised that she was impossible to control and that there was fear that she would continually be taken advantage of sexually.

3. L.M., 42—Phenix City, Alabama. Deafmute, abandoned by husband. Private physician referred her for first trimester abortion as he felt mentally and physically she could not cope with full-term pregnancy. She was scheduled for hysterectomy the following week.

4. D.O., 15, single. Referred by caseworker at Regional Youth Development Center, a delinquent home. D.O. was an inmate at the Center, awaiting disposition on criminal charge.

5. T. A., age 40, single. Mother of seven children, patient related that she feels due to age and size of her family, she could not face another pregnancy. One child is victim of leukemia.

DELAWARE WOMEN'S HEALTH ORGANIZATION WILMINGTON, DELA.

1. C. K. 18 years old. Patient verbalized extreme hostility to father and fetus. Has experienced past emotional problems, and schizoid personality.

2. S. D., 36 years old. White female, who was grieving over death of her husband five months prior had become pregnant by husband's friend, who was black.

3. W. L., 35 years old. Referred by physician as she has been on excessive number of medications.

4. T. F., 17 years old. Found hiding in a barn, threatening suicide. Referred by social worker at Children's Bureau, and Department of Public Health. Poor communication with parents, is now in intensive counseling with family.

5. S. G., age 29, single. Two illegitimate children. Has college education, is playwright, but has been on welfare for four years. Boyfriend is married, and also on welfare. Threatened suicide, diagnosed paranoid schizophrenic.

JACKSONVILLE WOMEN'S HEALTH ORGANIZATION JACKSONVILLE, FLA.

1. Case No. 6881, L. H. Thirteen year old black female with long history of forced relations with stepfather. Mother brought daughter to clinic for procedure at 8–9 weeks gestation. Stepfather was arrested and presently in prison for sexually molesting a minor. Other children in home. Younger daughter, age 11, admitted to stepfather fondling her. L. H. was rather withdrawn and not mature for age. Counselled with mother. After procedure, mother and counselor discussed possibility of stepfather returning into the home. Mother feels she will seek divorce.

2. Case No. 6937, B. M. Nineteen year old white female in upper socio-economic status presenting herself at five weeks gestation under pressure by mother. History of three previous abortions, alcoholism, venereal disease, one suicide attempt. Mother accompanied patient. Patient presently involved with a man who was not the punitive father. Patient did not want abortion at this point because she, "always wanted a baby; something of her own to love." This clinic did not perform a termination on this patient as it was apparent this was not her decision. Subsequently the patient returned in two weeks seeking abortion. She had reconciled her relationship with the boyfriend who planned to marry her after the abortion since this was not his child and the natural father was not conclusive. The procedure was satisfactorily performed and the patient referred for further psychological counselling.

3. Case No. 6923, N. D. Twenty-three year old black female on Medicaid and AFDC presented herself at seven weeks gestation with severe sexual conflicts. The patient denied her sexuality and although this was her second pregnancy considered this a "virgin

birth." The patient suffers from vaginismus and could not be examined successfully. After additional counselling, the patient related that her Medicaid funds were to be discontinued in several days because she had found a job and was enrolled in a junior college program. It was the patient's goal to break the welfare cycle and improve her lifestyle. She realized that she could not accomplish this with a new baby to care for. At this point, the patient relaxed sufficiently to perform her abortion. Her decision was supported and she was referred for sexual counselling.

4. Case No. 6896, B. W. Seventeen year old white female referred by S.E.S. foster care program for termination. Patient had been in foster home situation several years and was a habitual runaway. During counselling patient stated she wanted to continue this pregnancy. The clinic made appropriate referral for pre-natal care. Contact for follow-up with her social worker revealed that the patient had run away. Subsequently the patient returned to the foster family and chose an abortion after realizing she was not equipped to become a single parent at this time. The procedure was successfully performed at seven weeks gestation.

5. Case No. 6851, J. B. Twenty-six year old white female presented herself for pregnancy termination at six weeks gestation. J. B. had a very structured religious background with many unresolved sexual conflicts. She had been divorced after a young marriage and had abstained from sexual activity for seven years. She became pregnant from her first encounter. She had many moral objections to abortion, but upon being faced with the reality of being unmarried and pregnant she had come to the clinic for termination. She had considered suicide at one point because she did not know abortion was legal. She finally made an informed decision and the procedure was successfully performed.

Mr. PACKWOOD. Finally, this provision fails to provide Federal funds for abortion for women carrying deformed fetuses. When science has mercifully taken us far enough to be able to detect and prevent such births, I think it is unforgivably heartless to deny poor women the chance to choose abortion in these cases.

Perhaps some of my colleagues are unaware of just how crippling such birth defects can be, or how pointless and cruel it is to force a woman to carry a child to term when most likely it will be stillborn. The October 1977 issue of Intercom briefly described some of the more serious physical birth defects as follows:

When a fetus has a neural tube defect, the woman's pregnancy is often uneventful, but anencephalic babies are stillborn. In spina bifida cases, there is no bony protection over an area of the spinal cord, and portions of it can protrude through the skin. Babies with open spines are born alive, but the defect can produce mental retardation, chronic illness, severe crippling, and death at an early age. Surgery is often required, and lifetime institutional care, which can cost some $40,000 a year in the United States.

A number of Stanford University Medical Center doctors recently joined together to plead for the provision of Federal abortion funds for poor women carrying deformed fetuses. All of them work with families that carry genetic conditions, and all of them have witnessed the anguish and crippling effect that such a birth can bring on an entire family. I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STANFORD UNIVERSITY MEDICAL CENTER,
*Stanford Calif., September 15, 1977.*

Mr. BOB WEBBER,
*Planned Parenthood, Western Regional Office, San Francisco, Calif.*

DEAR MR. WEBBER: We are writing with regard to the need to restore to women eligible for Medicaid the right to choose to abort a fetus and have the procedure paid for with federal funds. All of the undersigned are engaged in providing professional services to families who are considering or who are in the process of having children with a variety of genetic conditions—many of which will severely incapacitate the child and make him or her completely dependent upon others for the entire span of their lives. Through our work, for example, women who are at risk for having a child born with Downs Syndrome (mongolism) or severely crippling neurological defects can take advantage of a procedure (amniocentesis) which enables us to diagnose the presence of such conditions in the fetus. If the prenatal test indicates that the fetus is affected, these families can then choose, if they wish, to have an abortion.

Families which take advangtage of these fruits of modern medical science can avoid the severe psychological anguish of giving birth to such an affected child; can avoid the payments (by themselves or society) of the enormous cost of taking care of these affected children; and can devote themselves to the care and upbringing of their other, non-affected children. We have observed that having and caring for a child with one of these avoidable crippling conditions of ten strains the family to the point of breaking and denies necessary attention to other children in the family.

The recent denial of federal funds for abortions prevents many of the families in our country from making use of the best that medicine can offer, solely because they are dependent upon Medicaid. We can say with certainty that those are the very families for whom society will have to assume the heavy burden of paying for the lifelong support and care of these children with avoidable defects. On humanitarian grounds we are placing the family unit at great risk solely because people are on Medicaid and we are using a means test to deny people the right to prevent severe suffering.

We urge you to do everything in your power to allow the use of federal funds for the termination of pregnancy, particularly for families which are medically at risk for affected children.

Sincerely,

LIST OF SIGNERS

Clifford R. Barnett, PhD., Professor of Anthropology and Pediatrics, Chairman, Department of Anthropology; Rose Grobstein, Chief, Pediatric Social Service; Luigi Luzzatti, M.D., Professor of Pediatrics, Director, Birth Defects Center; Kent Ueland, M.D., Professor of Obstetrics and Gynecology; Howard M. Cann, M.D., Professor of Pediatrics and Genetics, Director, Genetic Counseling Clinic; Paul Hensleigh, M.D., Associate Professor of Obstetrics and Gynecology; Elizabeth M. Short, M.D., Assistant Professor of Medicine, Director, Medical Genetics Clinic.

Mr. PACKWOCD. Mr. President, I have reached the point at which I can no longer compromise and remain true to my beliefs on this issue. For all the above reasons, I must vote against the language presently under consideration.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment to Senate amendment No. 82, with an amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Arkansas (Mr. BUMPERS), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Iowa (Mr. CULVER) would each vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 59, nays 29, as follows:

[Rollcall Vote No. 610 Leg.]

YEAS—59

| | | |
|---|---|---|
| Abourezk | Gravel | Morgan |
| Anderson | Hansen | Moynihan |
| Baker | Hart | Nelson |
| Bayh | Haskell | Nunn |
| Bellmon | Hathaway | Percy |
| Bentsen | Hayakawa | Proxmire |
| Brooke | Heinz | Ribicoff |
| Burdick | Hollings | Riegle |
| Byrd, Harry F., Jr. | Jackson | Sarbanes |
| | Javits | Sasser |
| Byrd, Robert C. | Laxalt | Sparkman |
| Cannon | Leahy | Stafford |
| Case | Long | Stevens |
| Chafee | Magnuson | Stevenson |
| Chiles | Mathias | Talmadge |
| Church | Matsunaga | Tower |
| Clark | McGovern | Wallop |
| Cranston | McIntyre | Weicker |
| Eastland | Metcalf | Williams |
| Glenn | Metzenbaum | Young |

NAYS—29

| | | |
|---|---|---|
| Allen | Ford | Melcher |
| Bartlett | Garn | Packwood |
| Biden | Griffin | Randolph |
| Curtis | Hatch | Roth |
| Danforth | Hatfield | Schweiker |
| DeConcini | Helms | Stennis |
| Dole | Huddleston | Stone |
| Domenici | Johnston | Thurmond |
| Durkin | Lugar | Zorinsky |
| Eagleton | McClure | |

NOT VOTING—12

| | | |
|---|---|---|
| Bumpers | Inouye | Pearson |
| Culver | Kennedy | Pell |
| Goldwater | McClellan | Schmitt |
| Humphrey | Muskie | Scott |

So the motion was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the unfinished business, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954, to strengthen the financing of the social security system, and so forth, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is the amendment by the Senator from Nebraska (Mr. CURTIS) on which there is a 30-minute time limit.

Mr. BROOKE. Mr. President, I ask unanimous consent that Lawrence Grishom of Senator PERCY'S staff and Barbara Harris of my staff may be granted the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that John Napier of the staff of the Committee on the Judiciary and Hargrave McElroy of my staff be granted the privilege of the floor today and tomorrow on all matters to come before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the Senate session today to receive a briefing by the Secretary of State, Cyrus Vance, on the SALT negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. PROXMIRE. I ask unanimous consent to be allowed to proceed for 2 minutes to get conferees appointed on bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SECURITIES AND EXCHANGE COMMISSION AUTHORIZATIONS

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3722.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 3722) to amend the Securities and Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PROXMIRE. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. BROOKE, and Mr. TOWER conferees on the part of the Senate.

## UNLAWFUL CORPCRATE PAYMENTS ACT

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 305.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such Act to maintain accurate records, to prohibit certain bribes, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of November 1, 1977.)

Mr. PROXMIRE. Mr. President, I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon and that the Chair be authorized to appoint conferees.

The motion was agreed to and the Chair appointed Mr. PROXMIRE, Mr. SPARKMAN, Mr. WILLIAMS, Mr. BROOKE, and Mr. TOWER conferees on the part of the Senate.

## SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. McINTYRE. Mr. President, I ask unanimous consent that Tony Mazzaschi and Marc Scheer of my staff be granted the privilege of the floor during the consideration of the Social Security financing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that Robert Kabel of my staff may be accorded the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMPREHENSIVE RIVER BASIN PLAN FUNDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 538.

Mr. BAKER. Mr. President, reserving the right to object.

Mr. STEVENS. Reserving the right to object.

Mr. DOMENICI. Reserving the right to object, it being understood that no amendments be in order on that bill.

Mr. ROBERT C. BYRD. Only a minute and a half are allowed. No amendments.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2281) authorizing an increase in monetary authorization for nine comprehensive river basin plans.

Mr. BAKER. Mr. President——

Mr. RANDOLPH. Mr. President, let us have order. I think the Senators need to know what is being considered.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

The Senator from Tennessee.

Mr. BAKER. Mr. President, I am not going to object to bringing this up. I told the majority leader that it is cleared on our side. But for the record, I want the opportunity to say—and that is why I reserved my right a moment ago—that this docket has been cleared on this side and we do not object. If I do not have the opportunity to say that in the future, I shall begin to object.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator is right and is within his rights. I believe he maintains his right even after the clerk has stated the title. Am I correct? The clerk states the title of the bill and then the Chair says, "Is there objection to proceeding?"

The PRESIDING OFFICER. The Chair is consulting with the Parliamentarian.

Objection would still lie.

Is there an objection to the immediate consideration of the bill?

Mr. DOMENICI. Again, reserving the right to object. It is understood that there will be no amendments to the bill. They will not be in order?

The PRESIDING OFFICER. That is correct.

Hearing no objection, the Senate will proceed to the consideration of the bill.

The Senate proceeded to consider the bill.

Mr. GRAVEL. Mr. President, this is an authorization for nine river basins for 6 months. It is a ceiling on the spending in question. This is necessary because the Senate and Congress are not able to act on the omnibus water resources legislation during this session. We hope to take it up in January. This is to hold us over until that time so we can keep these projects going.

The PRESIDING OFFICER. If there be no amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read a third time and passed, as follows:

A bill authorizing an increase in the monetary authorization for nine comprehensive river basin plans.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) in addition to previous authorizations, there is hereby authorized to be appropriated for the

prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin, Act of Congress, and amount

Alabama-Coosa River Basin, March 2, 1945, $5,000,000.

Arkansas River Basin, June 28, 1938, $1,000,000.

Brazos River Basin, September 3, 1954, $14,000,000.

Mississippi River and tributaries, May 15, 1928, $22,000,000.

Missouri River Basin, June 28, 1938, $59,000,000.

North Branch, Susquehanna River Basin, July 3, 1958, $32,000,000.

Ohio River Basin, June 22, 1936, $18,000,000.

San Joaquin River Basin, December 22, 1944, $61,000,000.

South Platte River Basin, May 17, 1950, $3,000,000.

(b) The total amount authorized to be appropriated by this title shall not exceed $215,000,000.

Mr. GRAVEL. I move to reconsider the vote by which the bill passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## COMMENDATION OF THE FUTURE FARMERS OF AMERICA

Mr. HUDDLESTON. Mr. President, I ask unanimous consent to proceed for 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Reserving the right to object, what is the pending business and what is the control of time on it?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Nebraska, with a 30-minute time limitation.

Mr. CURTIS. And this is running against the 30 minutes?

The PRESIDING OFFICER. This is not running against the 30 minutes of the Senator from Nebraska.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of Senate Resolution 299 commending the Future Farmers of America, and that the Senate proceed to its immediate consideration.

Mr. BAKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I simply want to say, Mr. President, that the distinguished Senator from Kentucky has cleared the matter on this side, as has the Senator from Texas. We have no objection to proceeding to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 299) commending the Future Farmers of America.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object to the immediate consideration of the resolution, has this been cleared with the chairman of the committee (Mr. TALMADGE)?

Mr. HUDDLESTON. The Senator from Kentucky states that it has been cleared with the chairman of the Agriculture Committee and the ranking minority member and other members of that committee.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to its immediate consideration.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HUDDLESTON. Mr. President, this is a resolution that was submitted by the distinguished Senator from Texas (Mr. TOWER). I ask unanimous consent, that I, along with my colleague from Kentucky (Mr. FORD) and the distinguished Senator from Pennsylvania (Mr. HEINZ) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, as we mentioned, this is a resolution commending the Future Farmers of America for the leadership and training they have afforded young citizens in this country since its inception.

This organization is having its golden anniversary convention next week. I thought it was appropriate that this body go on record now in support of that organization.

Mr. President, I yield at this point to the distinguished Senator from Texas, an original sponsor of the resolution.

Mr. TOWER. Mr. President, I thank the distinguished Senator from Kentucky for the expeditious way he handled this very meritorious resolution.

The Future Farmers of America have made a great contribution.

The PRESIDING OFFICER. The 3 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there be 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. The Future Farmers of America have made a great contribution to the development of leadership, not only in the agricultural community of this country, but the business community, as well.

They are to be commended. It is an outstanding example of people working together to get things done.

They have done a great deal for the young people in rural areas of the country.

Again, I thank the distinguished Senator from Kentucky for his expeditious handling of this matter.

Mr. THURMOND. Mr. President, as a former agriculture teacher, I am familiar with the work of the Future Farmers of America. I think they have done a great job. I commend them for their leadership.

Mr. President, I wish to commend the able Senator from Kentucky for his remarks and wish to associate myself with those remarks.

Mr. HUDDLESTON. Mr. President, the Future Farmers of America will be holding their annual convention November 8–11, 1977, in Kansas City, Mo.

In 1917 Congress enacted the Smith-Hughes Act which provided for the teaching of vocational agriculture in the high schools of this Nation. And since that time there has been little question that the vo-ag program called for by Smith-Hughes have been highly successful.

The Future Farmers of America is a vocational student organization and is an integral part of the vocational agriculture instructional program. This organization now has membership of over one-half million students with chapters in over 8,000 schools. FFA members have become farmers, agribusinessmen, bankers, and governmental leaders. They have truly become the backbone of American agriculture.

The resolution that is now before us commends the Future Farmers of America for the many contributions this organization has made to American agriculture. And, Mr. President, these contributions have been to both the agricultural industry and to the people of this Nation. The FFA has developed leadership and good citizenship in millions of young men and women while at the same time preparing them for careers in American agriculture.

I now yield to my colleague from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, next week the Future Farmers of America will celebrate its 50th anniversary at Kansas City, Mo. In recognition of this significant event, I believe the Senate will unanimously approve Senate Resolution 299, commending the Future Farmers of America. It is our privilege to join several of my colleagues in sponsoring this resolution, introduced by the Senator from Texas (Mr. TOWER). Senator HUDDLESTON is bringing to our forum a most important resolution.

Approximately 510,000 young men and women in 8,148 high schools are engaged in FFA activities. The resolution properly commends the organization. Federal support for the teaching of vocational agriculture in high schools was established in the Smith-Hughes Act of 1917, in the following words:

. . . for the contributions it has made in sustaining our Nation's most basic industry of agriculture through developing leadership, encouraging cooperation, promoting good citizenship, teaching sound agricultural techniques and principles, and preparing our Nation's young men and women for careers in the industry of agriculture.

Mr. President, last July the FFA State President's Conference met in Washington for a full week. One day of the schedule was devoted to meeting with the Members of Congress. Representing our West Virginia was Frank Renick, president of the 7,200-member FFA organization in the Mountain State. Young Mr. Renick is a graduate of Mannington High School in Marion County.

On the day of his visit, I was chairing

a meeting on water pollution legislation in the Senate Environment and Public Works Committee. Frank sat with me, and during occasional lulls in the discussion, talked enthusiastically of the Future Farmers of America and its 75 chapters in West Virginia.

I learned that, out of a total work force of 605,000 within the State, there are only 40,505 workers engaged primarily in agriculture or agribusiness activities.

Approximately 3,500 trained farmers are needed each year to keep the farm force constant. Mr. Renick conveyed the dismaying message that less than one-fourth of that number is completing courses in agriculture which would lead to full-time farming.

I learned that only 16 percent of the needed farming skills are being filled at present. In 1974, for example, only 528 young men and women who were trained in agricultural vocational methods at the secondary and postsecondary levels, actually engaged in farming.

They are leaving the farm. At a time when it is absolutely essential that young people assure the roles of leadership and careers in the agricultural industry, the ranks are dwindling. This trend, if continued, portends problems for this Nation's efforts to provide food and fiber for the people of the United States and much of the world.

For this reason, our recognition of the role that FFA is performing in training and maintaining young peoples' interest in the land and its products, assumes an even greater importance.

It is reassuring to me to see what a talented and outstanding group of young men and women visit the Nation's Capital each year. I look forward to their fresh views and dedicated outlook. Faith is renewed in the future of America when young people such as Frank Renick help to shape that future.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH), Senators, MCINTYRE, MCCLURE, BAKER, ROBERT C. BYRD, and DECONCINI be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The additional 1 minute has expired.

Mr. ROBERT C. BYRD. Vote!

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 299) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the Future Farmers of America, a vocational student organization, is an integral part of the instructional program in vocational agriculture/agribusiness;

Whereas the Smith-Hughes Act of 1917 established Federal support for the teaching of vocational agriculture in high schools across the Nation;

Whereas students of vocational agriculture prepare themselves for roles of leadership and careers in the industry of agriculture which constitute this Nation's efforts to provide food and fiber for the people of the United States and much of the world;

Whereas the Future Farmers of America provides an outlet for the energy, initiative, and expertise of nearly five hundred and ten thousand students in eight thousand one hundred and forty-eight high schools in every State of the United, Puerto Rico, and the Virgin Islands; and

Whereas the Future Farmers of America will have its golden anniversary convention November 8–11, 1977, in Kansas City, Missouri: Now, therefore, be it

*Resolved*, That the United States Senate commends the Future Farmers of America for the contributions it has made in sustaining our Nation's most basic industry of agriculture through developing leadership, encouraging cooperation, promoting good citizenship, teaching sound agricultural techniques and principles, and preparing our Nation's young men and women for careers in the industry of agriculture.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Future Farmers of America.

## SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Nebraska (Mr. CURTIS) for allowing the Senate to impose on his time. His amendment is before the Senate, and I hope we may proceed now.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, I yield myself 5 minutes.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, we are about to vote on a very important issue. Social security is complex. But sometimes a problem can present itself in a simple way, and it calls for a simple but straightforward answer.

We hear all sorts of scare stories. This morning I heard a commentator say that the social security system was bankrupt. I do not think that added a service to the general public, particularly to the beneficiaries.

We are collecting about $82 billion in social security every year, but this year we are going to be short a little over $6 billion. Next year it will be a little more.

In the long range, we have got some problems. It is just that simple.

Where do we get the $6 billion? I do not think that this Congress wants to lower benefits. We have got to increase income.

Yesterday, we voted overwhelmingly against dipping into the general Treasury. Now the issue is, Shall we soak the employers rather than face this problem? That is what it amounts to.

I carry no brief for employers, but I do say that this amendment will create havoc and if it becomes the law of the land the Congress will be here repealing it in less than 6 months.

To raise the base on employers only abandons the guideline of a contributory system, half by employers and half by employees.

Furthermore, when we raise the wage base clear up to $75,000, we discriminate against companies. Concerns that employ a great many high paid and skillful people will have a tremendous tax increase. Others may not.

In other words, Mr. President, it is an effort for an easy answer:

How do we propose to impose this half percent on each one? The total on the payroll of 1 percent will bring in about $8 billion in full force. We propose that beginning in 1979, and we should never make these things retroactive, this gives a year lead time after the conference acts, that in 1977 we raise the tax a simple 0.2 of 1 percent.

In the individual making $10,000, it amounts to $20.

Also, keep in mind, Mr. President, that, very properly, we have tilted the benefits in the social security in favor of the lower paid. We have also enacted the earned income credit. So the individual who has nothing but earned income and does not make more than $4,000 gets a credit that is refundable for $400. If he makes $7,000, he will still get a refund of $100, to compensate for the fact that the social security tax is a tax on the first dollar that he earns.

Now, no one likes taxes. No one likes to increase taxes. But what are we going to do? Here is a system, and, as the distinguished Senator from North Carolina said yesterday, more people depend on the social security than on any other program we have.

Mr. President, I think smart politics in this deviates from the pattern in the past of trying to avoid things, to conceal the true cost of social security and find an easy answer.

The Nation is alarmed about the situation, and I believe they are expecting the Congress to meet it forthwith and forthright.

All we are asking here is a raise in the social security tax on employees of one-half of 1 percent in two steps, and a raise of a similar amount on the employers. It will keep all of the benefits flowing. It will take care of our immediate problem. It will conform to all the guidelines that we follow.

Yesterday there was circulated in the Chamber a statement from the leading municipalities carrying a list of cities that would pay more under my proposal than under the committee proposal.

The committee would load it all on employers. I would vote half on.

Now, when does half of a sum exceed the whole? I had it checked. They admit now that they have made a mistake; but they got it mixed up; that they took part of my plan one and combined plan two with it and came up with such an answer.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CURTIS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. I yield 3 minutes to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, in my judgment, the social security program is more important to more people than any other Federal program.

Social security was enacted in 1935. During the intervening 42 years, it has become a basic and integral part of the lives of the American people.

When social security was established, it was funded on the principle that one-half of the total social security tax would be paid by the employer and the other one-half would be paid by the employee. The employee, of course, would be the beneficiary of the total amount. The basic principle continues to this day.

What the Curtis amendment in the nature of a substitute proposes to do is to maintain this principle. I feel that that is a very important concept to maintain. The social security program is of such vital importance that I feel it unwise to depart from the fundamental concept as to financing.

The social security fund, as the able Senator from Nebraska just pointed out, can be replenished appropriately by an equal increase in the tax on employer and employee. Such a tax, I feel, would be preferable to the bill recommended by the Senate Committee on Finance.

So I shall vote for the substitute offered by the distinguished Senator from Nebraska (Mr. CURTIS).

The social security program is too important to too many people to allow the reserves to drop to dangerously low levels.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, is there a time limitation?

The PRESIDING OFFICER. Fifteen minutes to a side.

Mr. NELSON. Mr. President, there are several ways and combinations of ways to provide funding to secure the social security trust funds.

I will repeat what I said in the Finance Committee and what I said on the floor yesterday: The proposal of the Senator from Nebraska does levy the tax and provide the necessary funds to secure the social security fund, based upon the intermediate assumptions of the Social security trustees, through the year 2050. The proposal that the Finance Committee reported to the Senate does the same thing. Both proposals accomplish that result, based upon the intermediate assumptions, without a deficit 75 years from now. That is to say, the fund will be in balance, based upon those assumptions, in the year 2050, in both cases.

In plan No. 2—what is called plan No. 2—of Senator CURTIS, there will be a plus 0.4 percent balance of taxable payroll in the social security trust funds. Under Senator CURTIS' alternative plan, there will be a deficit of 0.27 percent of taxable payroll. Under the House bill, there would be a deficit of 1.62 of taxable payroll, which is fairly substantial. Under the Finance Committee plan, there would be a long-term surplus of 0.06 of taxable payroll.

So both the Curtis plan and the Senate Finance Committee plan finance the social security fund and insure its security for the next 75 years and beyond. This is an important objective to achieve for the purpose of assuring everybody who contributes to the fund—104 million Americans who are now contributing—and the 33 million who are now beneficiaries that their retirement is not in jeopardy, that the money will be on hand for them when they retire. It is important that we give that assurance, and there has never been any doubt in my mind that Congress would do so.

The point I am making is that both Senator CURTIS' plan and the Finance Committee plan went to great care to levy the taxes, to be sure that we could guarantee the integrity of social security all the way to the year 2050. I believe it was a wise move to do so on the part of Senator CURTIS in his plan and the Finance Committee in its plan.

As I suggested, there are several ways to finance social security, and each has a different impact. You can dramatically raise the wage base on employers and employees—that is, more dramatically than it is being raised—as the House does. The House bill places a significantly higher burden of cost on those in income brackets $20,000 and above. Social security could be financed by just increasing taxes, which places a heavier burden on the low-income groups. A combination of increased payroll taxes and increased employer and employee wage bases could finance social security. A variable employer/employee wage base, as is in the Finance Committee plan, could also be used.

The social security fund got into this declining financial situation because of three or four factors. Two of these factors were high unemployment and excessive inflation. Another factor was the double indexing of future benefits, which was not intended at the time it was adopted by Congress; this problem is resolved in the proposal before us. Eliminating double indexing solves 50 percent of the total long-term—75 years—problem in social security. The Senate Finance Committee bill provides an average replacement rate of 43 percent of a worker's earnings the year before his retirement. For the first time, everybody knows what their retirement replacement rate is going to be.

In order to take care of the short-term financing problem without placing too heavy a burden on the contributing employees, I proposed, and the Finance Committee reported to the floor, a bill which establishes a wage base of $50,000 for the employers; in 1985, it would increase to $75,000 and remain at that level until sometime after the year 2000.

In the meantime, under the current law, employees' wage bases continue to rise with increases in average wages. For example, the wage base of employees under the Finance Committee proposal goes from $16,500 in 1977 to $33,900 in 1987. It is projected to reach $75,000 by the year 2002.

On the other hand, the House bill provides for wage base jumps from $16,500 to $24,600 in that same period. Senator CURTIS' plan No. 2 has the same employee wage base on the Finance Committee plan.

Under the differential wage base in the committee bill, the employer and employee wage base will again be equal in 25 years. It is not a permanent differential on the wage base between the employer and the employee as was proposed by the Carter administration. The administration's bill that was submitted to Congress proposed that the wage base cap be taken off the employer totally, so that those who are earning $500,000, $600,000 or $900,000—the highest paid people in this country—would pay on that whole wage base on the employer's side. We did not accept that in the Finance Committee.

Instead of no limit on the employer's side, we set a limit of $50,000 and $75,000. Under current economic projections, the wage base of the employer will be at $75,000 29 years from now, and the employee wage base will have risen to $75,000. Therefore, they will be back to parity, and in the meantime, a method of meeting the short-term deficit in the social security trust fund will have been met. At the same time, there will be less of a burden upon the employee.

As to the employer, it should be pointed out that a substantial majority of all employers in the country pay less under this plan with a higher employer wage base than they would under the plan in which the wage base for employers and employees increases equally because 87 percent of all wages are already covered by the current employer wage base. As of next year, employers whose employees are earning less than $17,500 will incur no increase on their employees at all; whereas, if we levied the tax equally there would be an increase on both the employer and the employee and that would cost most employers more because increasing payroll taxes effects all employees, regardless of their salaries. Only employers of high-paid employees will be affected by the Finance Committee bill.

So, as to a substantial percentage of the employers in this country the Finance Committee proposal will cost them less money than if we levied the payroll tax equally on each side.

What is the impact on the employee of these plans?

Under this Finance Committee bill, in 1979 the increase in the tax on the employee earning an average wage of $11,655 over and above the scheduled increases, which are substantial, would be $10. Under the House bill, the additional cost is zero. Under the Senator Curtis plan No. 1, the cost is $33; and under Senator CURTIS' plan No. 2 the cost is $39.

In 1981, the increase under the Finance Committee bill is $40 on the average worker, $33 in the House bill, $78 under Curtis No. 1, and $73 under Curtis No. 2.

In 1987, the increase on the individual worker over the current scheduled increases in the law, which are the really substantial increases, is $112 a year under the Finance Committee plan, $121 under the House bill, $165 under the Curtis plan No. 1, and $177 under Curtis plan No. 2. That tells us the impact on the average worker.

Next, let us look at the impact on the annual tax payments of workers earning the maximum base. In 1977, the employee earning base is set at $16,500. The taxable earnings base will increase

to $21,000 under the Finance Committee bill in 1980. The base goes to $25,900 under the House bill and $21,000 under Curtis plan No. 2.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. CURTIS. Plan No. 2 is not before the Senate at this time.

Mr. NELSON. Which plan is?

Mr. CURTIS. No 1.

Mr. NELSON. I am sorry. I did not know that. As the Senator knows, we were trying to make up these charts at a time when the last proposal made by the Senator from Nebraska was plan No. 2. We researched both No. 1 and No. 2, and I thought the Senator was sticking with No. 2. But I now understand.

Mr. CURTIS. No.

Mr. NELSON. That even makes my argument look better, but that is all right.

Mr. CURTIS. For instance, the House raised the wage base by $8,400 effective a few years down the line and that would bring the cost to $529, for the highest paid employee while mine would only create an increased cost of $117.

Mr. NELSON. The maximum base for those employees earning high wages under the Finance Committee proposal in 1987 will be $33,900, compared to $31,200 under Curtis plan No. 1 and $42,600 in the House bill.

Under the Finance Committee plan, the employee earning the maximum will be paying $378 a year more than the current scheduled social security tax. Under the House bill, the maximum earner will pay $1,012 more on a maximum base of $42,600.

Under Senator CURTIS' plan No. 1, the maximum earner will pay $276 more on those earning the maximum versus $378 more under the Finance Committee plan.

Mr. President, I ask unanimous consent that the appropriate tables that we have been reading from here and others be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COMPARISON OF ALTERNATIVE SOCIAL SECURITY FINANCING PLANS

1. Present law.

2. Senate Finance Committee bill as reported on November 1, 1977.

3. H.R. 9346 as passed by the House.

4. Finance Committee bill as reported, with modifications proposed by Senator Curtis (present law earnings base for both employers and employees with higher tax rates, as shown on page 1).

5. Finance Committee bill as reported, with alternative modifications proposed by Senator Curtis (employee earnings base in Finance Committee bill to apply to employers as well; higher tax rates, as shown on page 1).

COMPARISON OF FINANCING PROPOSALS

| | Present law | Finance Committee (Nelson proposal) | House bill | Curtis plan 1 | Curtis plan 2 |
|---|---|---|---|---|---|
| Total (OASDHI) tax rate (employer and employee, each; in percent): | | | | | |
| 1977 | 5.85 | 5.85 | 5.85 | 5.85 | 5.85 |
| 1978 | 6.05 | 6.05 | 6.05 | 6.05 | 6.05 |
| 1979 | 6.05 | 6.135 | 6.05 | 6.335 | 6.385 |
| 1980 | 6.05 | 6.135 | 6.05 | 6.635 | 6.385 |
| 1981 | 6.30 | 6.60 | 6.55 | 6.885 | 6.85 |
| 1982 | 6.30 | 6.60 | 6.65 | 6.885 | 6.85 |
| 1983 | 6.30 | 6.60 | 6.65 | 6.885 | 6.95 |
| 1984 | 6.30 | 6.60 | 6.65 | 6.885 | 6.95 |
| 1985 | 6.30 | 7.00 | 6.95 | 7.185 | 7.35 |
| 1986 | 6.45 | 7.05 | 7.10 | 7.335 | 7.40 |
| 1987 | 6.45 | 7.05 | 7.10 | 7.335 | 7.40 |
| 1988–89 | 6.45 | 7.05 | 7.10 | 7.335 | 7.40 |
| 1990–94 | 6.45 | 7.50 | 7.65 | 7.885 | 7.95 |
| 1995–2000 | 6.45 | 8.10 | 7.65 | 8.385 | 8.45 |
| 2001–10 | 6.45 | 8.70 | 7.65 | 8.785 | 8.85 |
| 2011 and later | 7.45 | 9.20 | 7.65 | 9.185 | 9.35 |
| 75-yr average balance (percent of taxable payroll) [1] | −8.20 | +.06 | [2] −1.62 | −0.27 | +.40 |
| Employee earnings base: | | | | | |
| 1977 | $16,500 | $16,500 | $16,500 | $16,500 | $16,500 |
| 1978 | 17,700 | 17,700 | 19,900 | 17,700 | 17,700 |
| 1979 | 18,900 | [3] 19,500 | 22,900 | 18,900 | [3] 19,500 |
| 1980 | 20,400 | 21,000 | 25,900 | 20,400 | 21,000 |
| 1981 | 21,900 | [3] 23,100 | 29,700 | 21,900 | [3] 23,100 |
| 1982 | 23,400 | 24,600 | 31,800 | 23,400 | 24,600 |
| 1983 | 24,900 | [3] 26,700 | 33,900 | 24,900 | [3] 26,700 |
| 1984 | 26,400 | 28,200 | 36,000 | 26,400 | 28,200 |
| 1985 | 27,900 | [3] 30,300 | 38,100 | 27,900 | [3] 30,300 |
| 1986 | 29,400 | 32,100 | 40,200 | 29,400 | 32,100 |
| 1987 | 31,200 | 33,900 | 42,600 | 31,200 | 33,900 |
| Employer earnings base: | | | | | |
| 1977 | 16,500 | 16,500 | 16,500 | 16,500 | 16,500 |
| 1978 | 17,700 | 17,700 | [4] 19,900 | 17,700 | 17,700 |
| 1979 | 18,900 | [4] 50,000 | [4] 22,900 | 18,900 | [4] 19,500 |
| 1980 | 20,400 | 50,000 | [4] 25,900 | 20,400 | 21,000 |
| 1981 | 21,900 | 50,000 | [4] 29,700 | 21,900 | [4] 23,100 |
| 1982 | 23,400 | 50,000 | 31,800 | 23,400 | 24,600 |
| 1983 | 24,900 | 50,000 | 33,900 | 24,900 | [4] 26,700 |
| 1984 | 26,400 | 50,000 | 36,000 | 26,400 | 28,200 |
| 1985 | 27,900 | [4] 75,000 | 38,100 | 27,900 | [4] 30,300 |
| 1986 | 29,400 | 75,000 | 40,200 | 29,400 | 32,100 |
| 1987 | 31,200 | 75,000 | 42,600 | 31,200 | 33,900 |
| OASDI reserve ratio (start of year; in percent): [1] | | | | | |
| 1977 | 47 | 47 | 47 | 47 | 47 |
| 1978 | 36 | 36 | 37 | 36 | 36 |
| 1979 | 27 | 28 | 31 | 26 | 28 |
| 1980 | 18 | 25 | 27 | 21 | 26 |
| 1981 | 9 | 24 | 25 | 21 | 24 |
| 1982 | [5] | 28 | 26 | 22 | 29 |
| 1983 | [5] | 31 | 28 | 22 | 34 |
| 1984 | [5] | 33 | 29 | 22 | 36 |
| 1985 | [5] | 35 | 30 | 21 | 38 |
| 1986 | [5] | 41 | 34 | 23 | 44 |
| 1987 | [5] | 46 | 37 | 25 | 51 |
| HI reserve ratio (start of year; in percent): [5] | | | | | |
| 1977 | 66 | 66 | 66 | 66 | 66 |
| 1978 | 55 | 55 | 55 | 55 | 55 |
| 1979 | 56 | 48 | 50 | 56 | 48 |
| 1980 | 53 | 46 | 44 | 53 | 38 |
| 1981 | 45 | 40 | 34 | 45 | 25 |
| 1982 | 50 | 44 | 42 | 50 | 19 |
| 1983 | 50 | 43 | 45 | 50 | 8 |
| 1984 | 44 | 36 | 42 | 44 | 5 |
| 1985 | 34 | 25 | 34 | 34 | [5] |
| 1986 | 20 | 16 | 22 | 20 | [5] |
| 1987 | 10 | 6 | 15 | 10 | [5] |

[1] Estimate for all proposals supplied by the Office of the Actuary, Social Security Administration.
[2] Preliminary estimate.
[3] Statutory increase of $600.
[4] Includes effect of statutory earnings base increase.
[5] Funds exhausted.

IMPACT ON ANNUAL TAX PAYMENTS OF WORKER EARNING AVERAGE WAGE

| | Wage | Taxes under present law | Increase over present law: Finance Committee (Nelson proposal) | House bill | Curtis plan 1 | Curtis plan 2 |
|---|---|---|---|---|---|---|
| 1977 | $10,001 | $585 | | | | |
| 1978 | 10,812 | 654 | | | | |
| 1979 | 11,655 | 705 | $10 | 0 | $33 | $39 |
| 1980 | 12,486 | 755 | 11 | 0 | 73 | 42 |
| 1981 | 13,281 | 837 | 40 | $33 | 78 | 73 |
| 1982 | 14,078 | 887 | 43 | 49 | 82 | 77 |
| 1983 | 14,888 | 938 | 45 | 52 | 87 | 97 |
| 1984 | 15,744 | 992 | 47 | 55 | 92 | 102 |
| 1985 | 16,649 | 1,049 | 117 | 108 | 172 | 175 |
| 1986 | 17,606 | 1,136 | 106 | 114 | 156 | 167 |
| 1987 | 18,619 | 1,201 | 112 | 121 | 165 | 177 |

IMPACT ON ANNUAL TAX PAYMENT OF WORKER EARNING THE MAXIMUM

| | Taxes under present law | Increase over present law: Finance Committee (Nelson proposal) | House bill | Curtis plan 1 | Curtis plan 2 |
|---|---|---|---|---|---|
| 1977 | $965 | | | | |
| 1978 | 1,071 | 0 | $133 | 0 | 0 |
| 1979 | 1,143 | $53 | 242 | $54 | $102 |
| 1980 | 1,234 | 54 | 333 | 119 | 107 |
| 1981 | 1,380 | 145 | 566 | 128 | 203 |
| 1982 | 1,474 | 149 | 640 | 137 | 211 |
| 1983 | 1,569 | 194 | 686 | 146 | 287 |
| 1984 | 1,663 | 198 | 731 | 154 | 297 |
| 1985 | 1,758 | 363 | 890 | 289 | 469 |
| 1986 | 1,896 | 367 | 958 | 260 | 479 |
| 1987 | 2,012 | 378 | 1,012 | 276 | 496 |

OASDI PERCENT OF TAX RATE (EACH)

| | Present law | Finance Committee (Nelson proposal) | House bill | Curtis plan 1 | Curtis plan 2 |
|---|---|---|---|---|---|
| 1977 | 4.95 | 4.95 | 4.95 | 4.95 | 4.95 |
| 1978 | 4.95 | 5.05 | 5.05 | 4.95 | 5.05 |
| 1979 | 4.95 | 5.085 | 5.05 | 5.235 | 5.385 |
| 1980 | 4.95 | 5.085 | 5.05 | 5.535 | 5.385 |
| 1981 | 4.95 | 5.35 | 5.25 | 5.535 | 5.70 |
| 1982 | 4.95 | 5.35 | 5.35 | 5.535 | 5.70 |
| 1983 | 4.95 | 5.35 | 5.35 | 5.535 | 5.60 |
| 1984 | 4.95 | 5.35 | 5.35 | 5.535 | 5.60 |
| 1985 | 4.95 | 5.65 | 5.65 | 5.835 | 5.95 |
| 1986 | 4.95 | 5.65 | 5.65 | 5.835 | 6.00 |
| 1987 | 4.95 | 5.65 | 5.65 | 5.835 | 6.00 |

HI PERCENT OF TAX RATE (EACH)

| | | | | | |
|---|---|---|---|---|---|
| 1977 | 0.90 | 0.90 | 0.90 | 0.90 | 0.90 |
| 1978 | 1.10 | 1.00 | 1.00 | 1.10 | 1.00 |
| 1979 | 1.10 | 1.05 | 1.00 | 1.10 | 1.00 |
| 1980 | 1.10 | 1.05 | 1.00 | 1.10 | 1.00 |
| 1981 | 1.35 | 1.25 | 1.30 | 1.35 | 1.15 |
| 1982 | 1.35 | 1.25 | 1.30 | 1.35 | 1.15 |
| 1983 | 1.35 | 1.25 | 1.30 | 1.35 | 1.35 |
| 1984 | 1.35 | 1.25 | 1.30 | 1.35 | 1.35 |
| 1985 | 1.35 | 1.35 | 1.30 | 1.35 | 1.40 |
| 1986 | 1.50 | 1.40 | 1.45 | 1.50 | 1.40 |
| 1987 | 1.50 | 1.40 | 1.45 | 1.50 | 1.40 |

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CURTIS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Have the 15 minutes expired?

The PRESIDING OFFICER. The Senator from Nebraska has 6 minutes.

Mr. CURTIS. And no time remaining over here.

The PRESIDING OFFICER. That is what the record shows.

Mr. CURTIS. Mr. President, I would say that is a well-earned advantage. I had to listen for 15 minutes to unsound philosophy and confusing figures, and by reason of that I get 6 minutes more to respond.

Mr. President, if we raise the wage base on employers from its present $16,500 up to $75,000, even though we take it in two steps, what do you suppose we would do?

Think of your State university, an employer that has many high-paid professors, instructors, and administrators. I know what it does to the University of Nebraska. It puts $1 million a year on them. That is not meeting the situation.

The proponents of the $75,000 wage base for employers started out with $100,000. Well, there are not too many being paid more than $75,000, so the result is just about as bad.

At that time I gathered information from all across the land as to what would be the impact. These figures that I am about to insert in the RECORD relate to the $100,000 ceiling rather than the $75,000 ceiling. But I think they would be almost the same. However, I want to be fair about it. A major private university in the State of New York, it would cost them $1.3 million; a leading national rubber company, $6 million; a major trunk airline, based in the Southeast, $11 million.

Mr NELSON. Mr. President, will the Senator yield for a question?

Mr. CURTIS. Yes.

Mr. NELSON. I have not been able to get figures together, but how much will it cost these same groups based upon the Senator's proposal, how much additional taxes would that be?

Mr. CURTIS. Well, it would be very much less, very much less. I cited the figures a bit ago that the raise of the base for only $8,000 results in increased taxes of over $500, while half a percent on payroll is about $117. Here is the thing, we are trying to raise about $8 billion and you have got to have a broad base, have it reach everybody.

Mr. President, I ask unanimous consent that this list of examples I started to read be printed in the RECORD in full.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

A major private university in the State of New York: $1.3 million.

A leading national rubber company: $6 million.

A major trunk airline, based in the Southeast: $11 million.

A Nebraska-based major construction company: $2.8 million.

A Midwestern state university: $1.4 million.

A textile company in the South: $2 million.

A leading manufacturer of copymaking equipment, headquartered in Connecticut: $27 million.

Two Texas-based national oil companies: $9.1 million and $20 million, respectively.

Two Oregon educational facilities: $2 million and $693,000, respectively.

Mr. CURTIS. Mr. President, I am not overly devoted to computer projections because they depend on what you put in there. Nevertheless, there are some very well-qualified ones. One of them is by the Chamber of Commerce of the United States. They point out, and I quote, speaking of the committee's proposal, "because investment would be less and inflation somewhat higher the Senate Finance Committee substitute bill would cause the economy to grow slower by 0.8 percent by 1980, family income to be $237 lower, and 400,000 fewer jobs."

Mr. President, I hold in my hand a communication dated October 31, 1977. It is from the National Association of State Budget Officers. Now, budget officers have to deal with the figures of paying the bills of all the State institutions.

They enclose a resolution, and here is what two points in them say: One, "Equal employee and employer contributions," and the next one says, "No use of general funds for continued support of the social security system."

Mr. President, I ask unanimous consent that that resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

A resolution requesting the Congress of the United States to consider certain concerns of the Committee on Intergovernmental Relations and the Executive Committee of the National Association of State Budget Officers during its consideration of amendments to the Social Security Act and the financing thereof.

Whereas, the Congress of the United States has now before it several proposals regarding the financing of the Social Security System, and

Whereas, state and local governments of the United States are vitally affected and concerned with these proposals, now, therefore,

Be It Resolved by the Committee on Intergovernmental Relations and the Executive Committee of the National Association of State Budget Officers:

1. That we urge the Congress to act expeditiously to assure the soundness of the Social Security System and that in this endeavor it adhere to certain principles:

a. There be no mandatory coverage for state and local units of government. Currently these units have the option of coming under the system or establishing an optional system. Many of these units have made independent provisions relating to the retirement of their employees and the mandatory coverage would be an additional and unnecessary burden on the financial resources of these units. Further, many of the benefits of these retirement systems were gained through the collective bargaining process and any enactment by the Congress of mandatory coverage would be a further benefit without any corresponding decrease in the benefits previously negotiated and covered under the local system. Further recent attempts by Congress to control wage and salary matters of state and local governments were declared unconstitutional.

b. In the event that mandatory coverage is the final action of Congress, it is suggested that the effective date be made several years in the future. This will allow for the necessary financial adjustments to be made within the state and local jurisdictions. Further, it will allow adequate time for court tests to be undertaken with reference to the mandatory coverage.

2. Further, the Committees believe the cost of participation in the Social Security System should continue to be an equal partnership between the employer and the employee. It would be unfair to require the employers, because they are fewer in numbers, to bear a disproportionate share of the increased cost of benefits. Except for the welfare component of the System, this is a retirement system and as such is and should be a substantial responsibility of the individual. An equal sharing of the cost does not seem unreasonable, as has been the history of the program since it was first enacted.

3. Further, the Committees believe General Revenue Funds should not be used on a continuing basis for support of the Social Security System. It may be necessary and

desirable in some instances to use General Revenue Funds to meet certain shortfalls in income; however, the rates should at all times be adequate to meet the benefits which Congress provides. Further, it would be desirable in some way to require the Congress by law to increase rates to meet any increased benefits. Any action which increases benefits without providing the increase in rates to finance those benefits is irresponsible and will continue to errode the public's confidence in financing the system.

4. Further, the Committee believes that in amending the Social Security Act as it relates to state and local units of government, Congress should recognize that basically the budgets of these units of government are fixed and as such are in a very poor position to respond to Congressional enactments during the year in which their budgets have already been enacted. This is very crucial to these units of government and Congress should consider the timing of these enactments and should delay the implementation date until such times as these units can respond to the appropriation of funds to meet the actions Congress has taken in this legislation.

Mr. CURTIS. Now, Mr. President, when this matter was heard before the Committee on Finance—how much time do I have left?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. CURTIS. Mr. President, when this matter was before the Committee on Finance I asked one of the top actuaries of the United States who, for many years, was the chief actuary of the social security system, to illustrate how we had constructed the benefits schedule so it was the most generous to people of low income.

I ask unanimous consent that my question and his answer and illustrations found on pages 232 and 233 of those hearings be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senator CURTIS. As I say—I do not mention this in any way as criticism—I think that a national policy that is a social system should give preferential treatment to those people who must rely upon that solely, and the individual with rescurces and higher earnings can better be able to add things for his own retirement where many of the people cannot.

I don't want to take the time right now but, Dr. Myers, would you give, for the record, two or three illustrations both in retirement and in reference to survivors, the dollar amounts of some hypothetical cases which will illustrate that for the committee in the printed record?

Mr. MYERS. Yes, sir. I will be glad to do so, Senator.

[The following was subsequently supplied for the record:]

SILVER SPRING, MD., *June 27, 1977.*

Subject: Illustrations of social security benefits for persons at different earnings levels.

The attached table presents data on retirement and survivor benefits under the Social Security program for persons at different earnings levels. In summary, these figures indicate very considerable heavier weighting of benefits applicable to persons with low earnings.

The retirement case is for a man retiring in January 1977 at age 65, and considers only the primary benefit. An individual who had had low earnings in all years before 1977 (at least as far back as 1956) would have a benefit representing about 57 percent of his final wage. On the other hand, such an individual who had had maximum earnings in all years in the past (at least back until 1956) would have such a ratio of only 32 percent. Thus, the low-paid individual would have a relative benefit almost twice as large as the maximum-earnings case.

The lower part of the table shows survivor benefits for a widowed spouse and two eligible children. If the insured worker dies at age 35, the total family benefits are quite sizable, representing 67 percent of the final earnings for the maximum-earnings case and over 100 percent for the low-earnings case. On the other hand, if the deceased worker was older, these benefit percentages would not have been as high. Thus, for age at death 46 or older, the replacement rate would be about 57 percent for the maximum-earnings case. Thus there is again illustrated the much larger relative benefits for persons with low earnings, although the benefits are quite substantial in all cases.

The anomalous situation as to the extremely high benefits for workers dying at young ages (which would be even more if the age at death that was considered was under 30) has been pointed out at times in the past. It would be eliminated under the proposals that would decouple the benefit computations through the use of the wage-indexing method. Under such circumstances, the benefit results for all ages at death would be somewhat similar to those shown in the attached table for ages at death 46 or older.

ROBERT J. MYERS.

Attachment.

*Illustrative social security benefits*

| Earnings category | Earnings in 1976 | Monthly benefit payable | Replacement rate (percent) |
|---|---|---|---|
| Man retiring in January 1977 at age 65, primary benefit only: | | | |
| Maximum | $15,300 | $412.70 | 32.4 |
| Average | 9,266 | 335.10 | 43.6 |
| Low [1] | 4,600 | 218.30 | 56.9 |
| Person dying in January 1977 at age 35, family benefit for widowed spouse and 2 children: | | | |
| Maximum | 15,300 | 856.40 | 67.2 |
| Average | 9,226 | 711.50 | 92.5 |
| Low [1] | 4,600 | 416.50 | 108.7 |
| Person dying in January 1977 at age 46 or older, family benefit for widowed spouse and 2 children: | | | |
| Maximum | 15,300 | 722.20 | 56.6 |
| Average | 9,266 | 168.60 | 80.5 |
| Low [1] | 4,600 | 328.90 | 85.8 |

[1] Assumed at $4,600 in 1976 and following the trend of the average wage in previous years.

Mr. CURTIS. As an illustration, a man retiring in 1977, age 65, if his earnings averaged $15,000, his social security benefit would be 32 percent of his earnings; if he only made $4,000 it would be 56 percent of his earnings. There are similar illustrations, but it will all show up in the record.

Mr. President, Thanksgiving is about on us. I would like to have the people of the United States, when they sit down to their Thanksgiving dinner, be thankful for the fact that Congress did not run away, that it did not try to raid the general fund or soak the people, but that they levied the tax necessary to pay these benefits.

The PRESIDING OFFICER. The Chair is advised that the Senator from Nebraska's time has expired, with 1 minute extra for Thanksgiving. [Laughter.]

Mr. CURTIS. I am sure many people are thankful that my time has expired. [Laughter.]

Mr. NELSON. No, I wish the Senator had more time.

Mr. President, I move to table the amendment, and I ask for the yeas and nays.

Mr. CURTIS. I think this is an important issue, and it should not be tabled, but the Senator has that right.

Mr. NELSON. Everybody knows the Senator is for his amendment and I am against it. If I move to table the Senator's amendment, it is an amendment I am against. If it is straight up or down——

Mr. CURTIS. The Senator is right. It carries a connotation and, for tactical reasons, it is used. It should not be used on this amendment. It is used many times, but I will not make any objection. It takes one more vote to table it than to pass it. Go ahead.

Mr. NELSON. Mr. President, with the consent of the Senator from Nebraska, I move to table and ask for the yeas and nays. [Laughter.]

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, the social security fund paid in is a trust fund for the benefit of the recipients. They have earned their payments.

Heretofore, I have voted against some of the increases in the benefits. The reason was, and I gave it at the time, that the added programs and benefits would cost more than the increase in taxes provided and the fund would become fi-

nancially unsound. This has now happened. There is no way out except to decrease benefits or increase the taxes.

Mr. President, I support the amendment by the Senator from Nebraska (Senator CURTIS). I do this because I am convinced that it would be a serious mistake for the Congress to depart from the historic concept that the burden of financing social security benefits should be shared equally by the employer and the employee.

The House of Representatives, in the social security financing bill which it adopted, increased the taxable wage base equally for employers and employees. The Senate Committee on Finance recommended that the wage base be raised higher and faster for employers than for employees. If the committee recommendation is adopted it will mark the first time in history that social security taxes have not been equal for employer and employee.

This year both employers and employees are paying taxes on the first $16,500 of earnings. Under existing law this is scheduled to rise to $17,700. Under the Finance Committee bill the maximum employer wage base would jump to $50,000 in 1979 and $75,000 in 1985. The maximum employee wage base would advance in much smaller steps, to $19,500 in 1979 and to $30,300 by 1985.

I certainly realize, Mr. President, that, with relatively fewer workers paying taxes to provide benefits for more retired Americans, higher payroll taxes are inevitable. This is the only course of action which will insure that present and future social security retirees will continue to receive their monthly checks and that the checks keep growing to offset the ravages of inflation. I have been warning for several years that the day of accounting on the solvency of the social security trust fund was approaching.

However, I believe that it would be a serious mistake for us to increase the employer wage base ceiling disproportionately and to the very high levels proposed by the committee bill. While I recognize that this approach has certain attractions, I believe that, in the long run, it would have negative, unpleasant, and unsound results. This is a matter of judgment, of course.

Mr. President, I hope that the Senate will not see fit to depart from the traditional concept that employers and employees will contribute to social security on an equal basis. I think that raising the wage base for employers more than for employees would be burdensome, unfair, and inequitable and I hope, therefore, that the amendment offered by the Senator from Nebraska will be adopted.

I wish it was possible to provide that no funds collected under these new tax schedules could ever be used to pay any benefits not provided by law through this or prior legislation. This would be a provision that could be modified by future congressional acts. I say now, however, with emphasis, that prudence dictates that future benefits should not be added unless completely new sources of revenue are also added to provide the money.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin to lay on the table the amendment of the Senator from Nebraska. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

Mr. DOLE. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. BAYH). The regular order has been called for, but that does not speed up the clerk's addition.

The result was announced—yeas 44, nays 45, as follows:

[Rollcall Vote No. 611 Leg.]

YEAS—44

| | | |
|---|---|---|
| Anderson | Hart | Metzenbaum |
| Bayh | Haskell | Moynihan |
| Bentsen | Hathaway | Nelson |
| Biden | Hollings | Pell |
| Brooke | Huddleston | Proxmire |
| Burdick | Jackson | Randolph |
| Cannon | Johnston | Ribicoff |
| Church | Kennedy | Riegle |
| Clark | Long | Sarbanes |
| Cranston | Magnuson | Sasser |
| DeConcini | Matsunaga | Stafford |
| Durkin | McGovern | Stevenson |
| Eastland | McIntyre | Weicker |
| Ford | Melcher | Williams |
| Gravel | Metcalf | |

NAYS—45

| | | |
|---|---|---|
| Allen | Glenn | Packwood |
| Baker | Griffin | Percy |
| Bartlett | Hansen | Roth |
| Bellmon | Hatch | Schweiker |
| Byrd, Harry F., Jr. | Hatfield | Sparkman |
| Byrd, Robert C. | Hayakawa | Stennis |
| Case | Heinz | Stevens |
| Chafee | Helms | Stone |
| Chiles | Javits | Talmadge |
| Curtis | Laxalt | Thurmond |
| Danforth | Leahy | Tower |
| Dole | Lugar | Wallop |
| Domenici | Mathias | Young |
| Eagleton | McClure | Zorinsky |
| Garn | Morgan | |
| | Nunn | |

NOT VOTING—11

| | | |
|---|---|---|
| Abourezk | Humphrey | Pearson |
| Bumpers | Inouye | Schmitt |
| Culver | McClellan | Scott |
| Goldwater | Muskie | |

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Nebraska. The yeas and nays have previously been ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. METZENBAUM. Mr. President, was the rollcall started?

Mr. PELL. Regular order, Mr. President.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. May the Chair answer the point raised by the Senator from Ohio? The rollcall had started but the Chair is advised that no one had responded. The suggestion of the Senator from Nebraska is in order.

QUORUM

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Point of order, Mr. President.

The PRESIDING OFFICER. The Chair is advised the point of order will have to wait until after the quorum call.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 65 Leg.]

| | | |
|---|---|---|
| Abourezk | Glenn | Morgan |
| Allen | Goldwater | Moynihan |
| Anderson | Gravel | Nelson |
| Baker | Hansen | Nunn |
| Bartlett | Hart | Packwood |
| Bayh | Haskell | Pell |
| Bellmon | Hatch | Percy |
| Bentsen | Hatfield | Proxmire |
| Biden | Hathaway | Randolph |
| Brooke | Hayakawa | Ribicoff |
| Burdick | Heinz | Riegle |
| Byrd, Harry F., Jr. | Helms | Roth |
| Byrd, Robert C. | Hollings | Sarbanes |
| Cannon | Huddleston | Sasser |
| Case | Jackson | Schweiker |
| Chafee | Javits | Sparkman |
| Chiles | Johnston | Stafford |
| Church | Kennedy | Stennis |
| Clark | Laxalt | Stevens |
| Cranston | Leahy | Stevenson |
| Curtis | Long | Stone |
| Danforth | Lugar | Talmadge |
| DeConcini | Magnuson | Thurmond |
| Dole | Mathias | Tower |
| Domenici | Matsunaga | Wallop |
| Durkin | McClure | Weicker |
| Eagleton | McGovern | Williams |
| Eastland | McIntyre | Young |
| Ford | Melcher | Zorinsky |
| Garn | Metcalf | |
| | Metzenbaum | |

The PRESIDING OFFICER (Mr. MELCHER). A quorum is present.

The question is on agreeing to the amendment offered by the Senator from Nebraska. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Iowa (Mr. CULVER) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT), is absent on official business.

The result was announced—yeas 40, nays 50, as follows:

[Rollcall Vote No. 612 Leg.]

YEAS—40

| | | |
|---|---|---|
| Allen | Garn | Percy |
| Baker | Glenn | Roth |
| Bartlett | Goldwater | Sasser |
| Bellmon | Hansen | Schweiker |
| Byrd, Harry F., Jr. | Hatch | Stennis |
| | Hatfield | Stevens |
| Byrd, Robert C. | Hayakawa | Stone |
| Chafee | Helms | Talmadge |
| Chiles | Laxalt | Thurmond |
| Curtis | Lugar | Tower |
| Danforth | Mathias | Wallop |
| Dole | McClure | Young |
| Domenici | Morgan | Zorinsky |
| Eastland | Nunn | |

NAYS—50

| | | |
|---|---|---|
| Abourezk | Hart | Metcalf |
| Anderson | Haskell | Metzenbaum |
| Bayh | Hathaway | Moynihan |
| Bentsen | Heinz | Nelson |
| Biden | Hollings | Packwood |
| Brooke | Huddleston | Pell |
| Burdick | Jackson | Proxmire |
| Cannon | Javits | Randolph |
| Case | Johnston | Ribicoff |
| Church | Kennedy | Riegle |
| Clark | Leahy | Sarbanes |
| Cranston | Long | Sparkman |
| DeConcini | Magnuson | Stafford |
| Durkin | Matsunaga | Stevenson |
| Eagleton | McGovern | Weicker |
| Ford | McIntyre | Williams |
| Gravel | Melcher | |

NOT VOTING—10

| | | |
|---|---|---|
| Bumpers | Inouye | Schmitt |
| Culver | McClellan | Scott |
| Griffin | Muskie | |
| Humphrey | Pearson | |

So Mr. CURTIS' amendment (No. 1579) was rejected.

(Later the following occurred:)

Mr. BAYH. I apologize to my colleague and express my deep appreciation. Out of necessity, I have to be absent from the Chamber.

Mr. President, I ask unanimous consent that the vote I cast on the Curtis amendment which somehow or other was cast yea be changed to nay. This will not change the results. I have checked with Senator CURTIS and Senator NELSON and they have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

Mr. NELSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.) The Senator from New Hampshire is recognized.

Mr. MCINTYRE. Mr. President, I shall call up my amendment.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. CURTIS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MCINTYRE. I yield first to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Lois Pfau, of my staff, be accorded the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I ask unanimous consent that Polly Gault, of Senator SCHWEIKER's staff, Dave Rust and Jack Miller, of the staff of the Aging Subcommittee, and Nancy Barrow, of Senator CHAFEE's staff, be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, I yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MCINTYRE. I yield to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I ask unanimous consent that Bob Reynolds of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. I yield to the Senator from Ohio.

Mr. GLENN. Mr. President, I ask unanimous consent that Thomas Dougherty, of my staff, be accorded the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONYIHAN. Mr. President, I make the same unanimous-consent request for Dr. Finn and Miss Bardacke, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that Jack Hunter, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Gary Sellers, of Senator CRANSTON's staff, be accorded the privilege of the floor during consideration of this pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

The Senator from New Hampshire has the floor, and the Senate will be in order before we will proceed.

Will Senators take their seats so that the Senator from New Hampshire may proceed.

The Senator from New Hampshire.

AMENDMENT NO. 1580

Mr. MCINTYRE. Mr. President, I call up amendment No. 1580 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. MCINTYRE), for himself and Mr. DURKIN, proposes an amendment numbered 1580.

Mr. MCINTYRE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place the following:

VETERANS' PENSION AND COMPENSATION

SEC. 204. (a) Subsection (g) of section 415 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying paragraph (1)(G) of this subsection, shall disregard any part of such benefits which results from (and would not be payable but for) any cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act which occurs after September 1, 1978, and after the date on which such individual becomes eligible for dependency and indemnity compensation under this section.".

(b) Section 503 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying subsection (a)(6) of this section, shall disregard any part of such benefits which results from (and would not be payable but for) any cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act which occurs after September 1, 1978, and after the date on which such individual becomes eligible for pension under this chapter.".

(c) In determining the annual income of any person for purposes of determining the continued eligibility of that person for, and the amount of, pension payable under the first sentence of section 9(b) of the Veterans' Pension Act of 1959, the Administrator of Veterans' Affairs shall disregard, if that person is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, any part of such benefits which results from (and would not be payable but for) any cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act which occurs after September 1, 1978,

(d) The amendments made by this section shall apply with respect to annual income determinations made pursuant to sections 415(g) and 503 (as in effect on and after June 30, 1960) of title 38, United States Code, and pursuant to section 9(b) of the Veterans' Pension Act of 1959, for calendar years beginning after September 1, 1978.

Mr. MCINTYRE. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. DURKIN), the Senator from Maine (Mr. HATHAWAY), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Kansas (Mr. DOLE) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, it is a simple amendment, and I shall try to be brief.

This amendment would make certain that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits due to cost-of-living increases.

I cannot go up to my State without hearing the veterans lament at the unfairness of the present veterans' pension program. The Congress passes a cost-of-

living increase to help social security recipients keep up with inflation, and yet the Government through the Veterans' Administration takes most of the increase by reducing the veteran's pension. Often the pensioner receives no increase. Clearly this is not what Congress intended.

Veterans' pensions, except in the cases of service-connected death or disability, are awarded in cases of great need or advanced age. The veteran's pension is equivalent to an amount which maintains his entire income at not more than $3,540. The amount of a veteran's pension is dependent on the difference between $3,540 and his total income from other sources. Since social security benefits are included in the sum of "other sources," his pension allowance is reduced by an increase in social security benefits. The social security system was established by Congress to protect citizens and their families when earnings are stopped or reduced because of the citizen's death, disability, or retirement. Benefits are paid to those who contributed a set minimum to the social security system during their working years or to their beneficiaries.

These two systems are the foundation of the Federal income insurance program in this country. Ideally, these systems, along with other social service programs such as medicare, medicaid, and veterans' medical services, should work in harmony to insure that those Americans who need assistance can obtain it. However, that is not the case today.

I know that each and every one of my colleagues has received many letters from constituents concerning this unfairness. I personally find it impossible to respond in any rational way for this unfairness. Members of the House and the Senate have introduced over 90 pieces of legislation in the 95th Congress to change this practice. There are three bills pending in the Senate Veterans' Affairs Committee that are similar to my amendment.

The Senate Veterans' Affairs Committee, under the most able leadership of Senator CRANSTON, has been wrestling with this problem for a long time. Clearly an overall reform of the pension program is in order and I know that this is the committee's No. 1 priority now that the GI Bill Improvement Act has been approved by the Senate. But even the committee cannot assure us that pension reform will pass both the House and the Senate next year. If that pension reform is approved, this amendment will most certainly be deleted in the course of its actions. But until that happens, I want to be able to tell New Hampshire's veterans the Senate realized there was an inequity in the law and that we made the law more equitable.

The Senate Veterans' Affairs Committee has not endorsed any of the bills offered by Senators DURKIN, PEARSON, and MATSUNAGA because of difficulties it sees in each. My amendment is modified in such a way as to make it more financially amenable. These bills have made the cost-of-living pass-through retroactive. My bill does not. Only cost-of-living increases after the enactment of this bill would not be counted in determining the veterans' pension. The problem of administration is simplified and the cost of my proposal further reduced by mandating that the pension of any veteran joining the veterans' pension plan after the enactment of this bill would be determined on the basis of the amount of social security benefits at the time they join the plan. However, any cost-of-living increases given after they joined the veterans' pension program would not be a cause for the redetermination of their pension level.

This amendment would add no further burden on the already overburdened social security system. This amendment would add, I admit, some cost to the veterans' pension program. However, if Congress and the Senate are sincere in their attempts to help veterans and the elderly survive inflation, the higher costs of food, rent, and especially fuel, this amendment must be passed.

Mr. President, we must put an end to this absurd system with its ravaging impact on the veterans of this Nation. Congress has tried repeatedly to increase veterans' pensions to compensate for declines caused by social security adjustments but this band-aid approach has just not worked. As the thousands of letters to Senators each year reveal, if this amendment is not adopted, many veterans' pension recipients with incomes below the poverty level will continue to lose their veterans' pensions as a result of the cost-of-living increases in social security benefits. There is no logic in the Government giving benefits with one hand and taking them away with the other, if the recipients are unable to maintain even a minimum standard of living. Mr. President, I urge the Senate to act now as they did 2 years ago to redress this wrong. I urge the adoption of my amendment.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. MCINTYRE. I yield to the distinguished Senator from New Hampshire.

Mr. DURKIN. I thank my distinguished colleague. I am pleased to join with my colleagues Senator MCINTYRE of New Hampshire and Senator HATHAWAY of Maine in sponsoring this amendment, and I am pleased to have this opportunity to address the Senate.

This amendment would insure that all veterans including World War I veterans are fairly and adequately covered. Every time I have toured or visited a senior citizens center or VA hospital in Manchester, the first thing veterans ask is, "Are we going to be victimized again or are we going to receive a small increase in our social security, and is our veterans pension going to be reduced as a result of that?"

You know we spend an awful lot of money around here. But it seems to me regrettable we have to so torment the veterans who are looking forward to social security, looking forward to maintaining their right to survive.

Earlier this year I introduced legislation which was aimed at ending this inequity by disregarding cost-of-living increases under social security when determining annual veterans pension benefits. Regrettably, we have not been able to get action in the Veterans' Committee on my bill.

The proposal before the Senate today will guarantee that actual cost-of-living increases under the social security system cannot be used to reduce the amount of a veterans pension allowance. Needy and deserving veterans who are forced to live on a veteran's pension and social security should be able to receive an income which enables them to survive at a decent standard of living.

We are not talking about the wealthy; we are not talking about those who are clipping coupons in some Florida condominium. We are talking about people who are struggling to exist, struggling to pay their oil bills, struggling to pay tneir electric bills, struggling to survive.

I think this amendment provides the wherewithal for these unfortunate citizens, these veterans who fought so hard for this country when I was still in school to have a dignified existence.

Mr. President, this amendment simply says that the Government should not give with one hand and take with the other. The purpose of social security cost-of-living increases is to keep inflation from eroding the value of these hard-earned benefits. Yet the intent of these increases has been frustrated by a system under which the benefits are reduced by any corresponding increase in monthly social security benefits.

The Congress has made a determination that cost-of-living increases are essential for those receiving benefits and attempting to live a decent life on fixed incomes. A result which takes away these increases is not only unfair to millions of veterans, but it also clearly denies the congressional purposes in allowing cost-of-living increases.

Mr. President, we have here an opportunity to end a system which unfairly deprives veterans of the full value of their benefits. I, therefore, strongly urge my colleagues to join in adopting this amendment as a means of correcting this long-standing inequity.

Mr. MCINTYRE. Mr. President, I thank my colleague for his support.

I ask unanimous consent that the distinguished Senator from Alabama (Mr. ALLEN) and the distinguished Senators from North Carolina (Mr. HELMS and Mr. MORGAN) be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California (Mr. CRANSTON).

Mr. CRANSTON. Mr. President, this is a veterans' pension amendment, not a social security amendment. Veterans' pension benefits are related to need—they should take into account other sources of income. The amendment gives preferential treatment to veterans with social security income compared to veterans with other kinds of income, or no other income. After a few years this would result in very large differences in the adequacy of benefits without any relationship to need.

By giving significantly increased

amounts to those pension recipients with the least need, the amendment would deny the Congress an opportunity to provide substantial increases to those pension recipients who need it most—the veterans with little or no income other than their pension.

Enactment of this amendment will, in fact, render it difficult if not impossible to achieve the much needed reform of the pension program, by setting up arbitrary classes of protected pensioners.

Mr. CRANSTON. Mr. President, while I share the Senator's deep concern that needy veterans and survivors receiving pension, who also have social security income, not be deprived of the full benefit of a social security cost-of-living increase because of the lack of coordination between the social security system and the way in which veterans' pension payments are determined, I do not at all agree that the approach contained in this amendment is a constructive solution to the problem, or, indeed, a solution at all. As I have many times reiterated, a major priority of the Committee on Veterans' Affairs is the restructuring of the need-based pension program. The pension reform bill which I intend to introduce will restructure the system in a way that will coordinate the payment of veterans pension with the social security system so that no pensioner receiving pension under the new program can ever lose the benefit of even $1 of a social security cost-of-living increase. Moreover, I have directed the staff of the Veterans' Affairs Committee to investigate ways in which this problem could be solved for those persons who do not elect, or who are not eligible for, pension under the new program we will be proposing.

This amendment would substantially interfere with the goal of making the pension system more equitable, because it benefits only those who have social security income, and does nothing to assist those without such income.

There are two other very important arguments against this amendment. First, it would set up arbitrary and discriminatory classes of pensioners who had social security income. Such pensioners would receive widely varying pension amounts not because the needs or even the other income available to these pensioners differ, but only because the pensioners entered the program in different years. In other words, the pensioners who would benefit the most are those who are currently receiving pension or who begin to receive it before July 1, 1979. They would receive larger pensions than those in succeeding years who have identical social security incomes; new pensioners in each succeeding year would always be worse off than those in all the previous years. For example, a current pensioner with $250 per month of social security income, this year has $225 "countable income," as that term is used by the VA. If the CPI increases at 6 percent during the next few years, and if the Senator's amendment were enacted, the same pensioner's "countable income" in 1981 would be $219, less than it is now, because of the compounding effect of the annual cost-of-living adjustments in social security. But even worse, a new pensioner in 1982—who has equivalent social security income—would have "countable income" of $263, $44 more than the first pensioner. The first person would have a much larger pension than the second—and I repeat, the only difference between them would be the years in which they entered the pension program. Moreover, the inequity illustrated by this example would be annually compounded; and the end result woud strike at the very foundation of the need-based pension program.

Second, this would be a very costly change. A CBO estimate of the first-year cost of a nonretroactive bill similar to this amendment is $118.9 million, which would have fiscal impact in 1980. In other words, no one would benefit from this amendment until 1980. The very people intended to be helped would have to wait until 1980 before they would receive any additional pension payment resulting from this amendment. This amendment is thus a hoax in terms of real help to beleaguered pensioners. Its effective date of September 1, 1978, is totally illusory and makes a mockery of the Congressional Budget Act and process.

While it has been impossible, because of the constraints of time, to obtain an estimate of the cost of this amendment for future fiscal years, we are informed by CBO that the 5-year cost would probably be in the billions of dollars. The device of allowing future pensioners to exclude only prospective social security cost-of-living increases has very little effect on the very high cost in future years. And most significantly, the cost does not begin to go down in future years; it would rise continuously.

Mr. President, as chairman of the Veterans' Affairs Committee, I strongly oppose this amendment. It seems to deal with a very real problem, but in an inequitable and unrealistic way.

As to the effect of last July's social security 5.9 percent increase, the House and Senate have just agreed to a 6.5-percent pension increase bill, H.R. 7345, which would insure that almost all of the more than 1.7 million veterans' pensioners who also receive social security benefits will have their pension benefits increased in January, 1978, because of the change in pension rates contained in H.R. 7345, and the average annual increase will be $95.

This amendment is neither fair nor equitable. I, therefore, hope it will be tabled, and intend to move to do so in just a moment.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. Certainly.

Mr. DURKIN. As you know, I serve on the Veterans' Committee with my friend from California, and I commend him for his long abiding concern with veterans and their problems. He has been a leader in the Senate in helping the veterans, and I have joined him.

But why do we have to torment these poor souls while we wait for the Veterans' Committee of the Senate and the Veterans' Committee of the House of Representatives to act on a pension for them? Why can we not take care of these people now, and then address the full realm of pension reform early next year? God knows we are not going to get to it this year, and this is some Christmas present we are sending to the veterans.

They read in the paper that they are getting a social security increase, and they are happy, they smile, for about 5 minutes; and then they turn around and hear that veterans' pensions will be reduced. I, for the life of me, cannot understand why we have to wait for the congressional budget process in order to help these unfortunate souls. They cannot burn the congressional budget process and all the hallowed traditions of this place in their furnaces and oil burners. They have a pressing need which should be met right now; and while we have our hallowed halls and traditions and conferences, what do these veterans have? Why do these people have to wait?

Mr. CRANSTON. The basic problem is that while we need pension reform generally, the more we press for it now, the more difficult it will be to achieve meaningful pension reform.

Mr. DURKIN. Will the Senator yield right at that point? Are you telling me we are going to hold these poor people hostage? That is what we would be doing if we wait, holding these people hostage to some hallowed tradition in this place and I submit that is unfair.

Mr. CRANSTON. The amendment would not help anyone until 1980, so we are hardly holding them hostage, since we expect and intend to achieve pension reform before 1980.

I also stress very strongly that the amendment discriminates between and among veteran pensioners, and against veteran pensioners who do not have social security benefits.

Mr. McINTYRE. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield to the senior Senator from New Hampshire.

Mr. McINTYRE. I thank the Senator from California. As I understand, this amendment would become effective and payments would be made pursuant to this amendment in 1979, not 1980.

It is my understanding that the distinguished Senator from California intends to move to table the amendment, so at this time I would like to ask for the yeas and nays on my amendment or any motion thereto.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I am happy to yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I rise in opposition to this amendment.

The McIntyre amendment has clearly been written to circumvent the budget process. There is not sufficient room in the 1978 second budget resolution to fund the full year effect of the McIntyre amendment. To delay the effective date of fiscal 1979—beyond October 1, 1978—would require a section 303 waiver. The September 1, 1978, date will result in no fiscal 1978 spending. Therefore, it is

technically consistent with the budget resolution and the provisions of the Budget Act. Such action would seriously violate the spirit of the Budget Act and distort the intent of the budget resolution by creating a substantially higher entitlement base on which fiscal 1979 spending decisions will be made than was anticipated by Congress in adopting the 1978 budget resolution.

We are going to get different figures of what this is likely to cost, but my estimates are that the first-year cost will be somewhere around $200 million.

Because of income and payment determinations which will not be made until after January 1, 1979, there will be no impact on the fiscal 1978 budget.

The unofficial estimate of the total 5-year cost of this amendment is around $1 billion; so I would join the Senator from California (Mr. CRANSTON) in opposing the amendment, and hope the Senate will give time for the Veterans' Affairs Committee and the Budget Committee to consider seriously the impact of the action that we are about to take.

Mr. CRANSTON. I thank the Senator very much.

Mr. McINTYRE. Mr. President, may I be recognized in my own right?

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. McINTYRE. I yield to my good friend from Maine.

Mr. HATHAWAY. I thank the Senator for yielding. It is a pleasure to join with him and his junior colleague in sponsoring the pending amendment.

While the amendment may not be a perfect solution to the problem, and while I believe that reform of the veterans' pension program, of course, is necessary, I agree with both of the Senators, and those who have spoken in favor of the amendment, that the veterans cannot wait. We cannot ask them to wait for 2 or 3 years more for us to correct what we believe and I think the majority in this body believe is a gross inequity. I certainly hope Congress will take action on pension reform before the provisions of this amendment are effective; but I want the Senate to pass this amendment, so that in the eventuality that the veterans pension reform is delayed once again, America's veterans will be able to keep their meager cost-of-living increase.

Mr. President, this amendment is crucial to veterans. It is crucial to Congress. In adopting this amendment, we can show the veterans throughout the country that we are not insensitive to their needs, and that we are not going to continue this absurd policy of giving with one hand and taking away with the other.

I thank the Senator for yielding.

Mr. McINTYRE. I thank my able friend from Maine.

Mr. ROTH. Mr. President, of the dozens of Government policies which make no sense, the one we are discussing now is among the worst. For years I have received mail from constituents who want to know why the Government takes away with one hand what it gives with the other. I can see no justification for continuing a system in which we vote a social security increase because elderly pensioners need more money, then automatically reduce their veterans pension because social security has risen. It is a policy which makes utterly no sense and is totally unexplainable.

I favor Senator McINTYRE's amendment because it will eliminate this system. I have discussed this problem with members of the Veterans' Affairs Committee in the past, and know that some prefer to address this problem in the context of overall pension reform. Personally, I see no need to wait. The issues involved are simple and straightforward, familiar to every Member of the Senate. There is no need to delay any further, so I urge others to also support this amendment.

The PRESIDING OFFICER. If the Senator from New Hampshire will permit the Chair to clarify a point, the Senator from New Hampshire earlier asked for the yeas and nays on his amendment or any motion in relation thereto. The Chair would state to the Senator from New Hampshire that such a motion would require unanimous consent for it to be in order. The Senator could ask for the yeas and nays on his amendment separately without unanimous consent.

Mr. McINTYRE. Mr. Presdent, the Senator from New Hampshire asks for the yeas and nays on his amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McINTYRE. Mr. President, I yield the floor.

Mr. BELLMON. Mr. President, on behalf of myself, Mr. EAGLETON, and Mr. DOMENICI, I send a motion to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

I move to commit the pending bill to the Committee on Finance, with instructions to report the bill during the month of February 1978.

Mr. DURKIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. Is that motion in order?

The PRESIDING OFFICER. The motion is in order.

Mr. CRANSTON. Would the Senator mind withholding until we dispose of the pending amendment?

Mr. BELLMON. Mr. President, it would seem to me it would be advantageous to dispose of the motion before we dispose of the amendment.

Mr. President, H.R. 9436, the social security financing bill, is intended to be the major piece of social security legislation maybe the most significant we shall see for the balance of the 20th century.

It is clearly a highly significant bill and may be the most significant bill that has been considered since social security was created. It is intended to solve the financial defects of the present system for at least the next 30 years. I believe that, as Members of the Senate, we owe it to ourselves and to our constitutents to make certain that the costs and the full implications of this bill and the amendments thereto are fully understood before we vote on them. The bill, Mr. President, was taken up by the Senate the very day it was reported. Copies of the bill were not available until the middle of the afternoon yesterday.

Mr. President, does it take unanimous consent to put my motion over until after the vote on the McIntyre amendment?

The PRESIDING OFFICER. Yes, it would. The motion of the Senator from Oklahoma takes precedence.

Mr. ALLEN. Mr. President, I ask unanimous consent that the Bellmon motion be temporarily laid aside until after disposition of the McIntyre amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

The question is on agreeing to the amendment as offered by the Senator from New Hampshire.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## CAMMILLA A. HESTER

Mr. ALLEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1269.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 1269) entitled "An Act for the relief of Cammilla A. Hester", do pass with the following amendment:

Page 2, line 4, strike [15] and insert: 10.

Mr. ALLEN. Mr. President, in this small relief bill, the Senate provided for an attorney's fee of 15 percent of the amount recovered. The House cut that fee down to 10 percent. I did not even know the bill provided for an attorney's fee, but I do approve of the reduction to 10 percent. It is the only thing in the House amendment.

I move that the Senate concur in the House amendment.

Mr. NELSON. What is the request, Mr. President?

Mr. ALLEN. That the Senate concur in the House amendment.

Mr. NELSON. Is that applicable to the social security bill?

Mr. ALLEN. No, Mr. President, it has nothing to do with it.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment to the Senate bill.

The motion was agreed to.

## SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with consideration of the bill.

Mr. CRANSTON. Mr. President, is it in order now to ask for the yeas and nays on a tabling motion on the McIntyre amendment?

The PRESIDING OFFICER. It is. The tabling motion has not yet been made. It will take unanimous consent to ask for the yeas and nays.

The motion to table is in order. Then it would be in order to ask for the yeas and nays.

Mr. CRANSTON. I want to make one statement about the effective date and the question of whether or not we are holding anybody hostage.

The date of the first social security cost-of-living increase after September 1, 1978, is July 1, 1979. That is the first increase to be affected by the pending amendment by its own terms. It will not affect the payment of pensions until February 1, 1980. This results from the fact that even though the social security cost-of-living increase occurs in July 1979, it cannot have any effect on the pension payment until after the end of the calendar year, that is, January 1, 1980, and even then, under the law, would not affect the pension payable until February 1980, because a rate increase is only payable for the month following the month in which it becomes effective. Not one pensioner will benefit from this amendment until that time.

I move to lay on the table the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Wyoming (Mr. WALLOP) would vote "nay."

The result was announced—yeas 20, nays 68, as follows:

[Rollcall Vote No. 613 Leg.]

YEAS—20

| | | |
|---|---|---|
| Bellmon | Eagleton | Moynihan |
| Bentsen | Gravel | Nelson |
| Byrd, Harry F., Jr. | Hansen | Packwood |
| | Hollings | Randolph |
| Byrd, Robert C. | Leahy | Ribicoff |
| Chafee | Long | Stafford |
| Cranston | Lugar | Stevenson |

NAYS—68

| | | |
|---|---|---|
| Allen | Goldwater | Metzenbaum |
| Anderson | Griffin | Morgan |
| Baker | Hart | Nunn |
| Bartlett | Haskell | Pell |
| Bayh | Hatch | Percy |
| Biden | Hatfield | Proxmire |
| Brooke | Hathaway | Riegle |
| Burdick | Hayakawa | Roth |
| Cannon | Heinz | Sarbanes |
| Case | Helms | Sasser |
| Chiles | Huddleston | Schweiker |
| Church | Jackson | Sparkman |
| Clark | Javits | Stennis |
| Curtis | Johnston | Stevens |
| Danforth | Kennedy | Stone |
| DeConcini | Magnuson | Talmadge |
| Dole | Mathias | Thurmond |
| Domenici | Matsunaga | Tower |
| Durkin | McClure | Weicker |
| Eastland | McGovern | Williams |
| Ford | McIntyre | Young |
| Garn | Melcher | Zorinsky |
| Glenn | Metcalf | |

NOT VOTING—12

| | | |
|---|---|---|
| Abourezk | Inouye | Pearson |
| Bumpers | Laxalt | Schmitt |
| Culver | McClellan | Scott |
| Humphrey | Muskie | Wallop |

So the motion to lay on the table amendment No. 1580 was rejected.

Mr. McINTYRE. Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER (Mr. STEVENSON). The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McINTYRE. Mr. Persident, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: the Senator from South Carolina (Mr. THURMOND), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MELCHER), and the Senator from Kentucky (Mr. FORD).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I wonder whether the Senator from New Hampshire will yield for a question, just for my information.

Mr. McINTYRE. I am happy to yield.

Mr. NELSON. What is the fiscal projection of the cost of this bill when the 14 million World War II veterans reach age 65?

Mr. McINTYRE. I do not know. The cost projected for 1979 would be $200 million.

Mr. NELSON. In 1979. And most of the World War II veterans have not yet reached 65. Does the Senator have any idea of what we are doing with our money?

Mr. McINTYRE. Will the distinguished Senator listen for a minute to the response?

What this amendment attempts to do is to address an inequity which has been going on for years. We all heard the distinguished Senator from California say that his pension reform bill is in the works. That bill treats all this equitably and correctly. It will be able to diminish some of the financial blow of this bill.

In the meantime, the amendment allows a year for the Veterans' Committee to come up with a pension reform bill; and if it does not do so, we think this inequity should be corrected, and that is the reason for this amendment.

Mr. NELSON. I should like to make one point on this matter.

I am sure there are inequities. I never saw the amendment until an hour ago. But I make the point that it is time that the U.S. Senate and Congress passed a rule that said that no amendment affecting pensions can be adopted without being referred to an appropriate pension committee, with a fiscal note.

I do not know how many billions we are dealing with. In the Wisconsin State Legislature, any amendment offered on the floor on a pension proposal is out of order. It has to go to the pension committee; and when the pension committee looks at the proposal and makes the appropriate fiscal note, it is the last you ever heard of the amendment because of the billions these kind of proposals cost.

Those Senators who talk fiscal responsibility to constituents and all over these Chambers ought to say, "For Heaven's sake, let us at least be honest enough to recognize that we are all cowards when it comes to giving something away—especially the Treasury."

Mr. McINTYRE. Mr. President, the amendment of the Senator from New Hampshire was at the desk as of yesterday, so the distinguished manager of this bill had ample opportunity to read it and be acquainted with it.

Mr. NELSON. I take it back. So, among all that pile of amendments, there was one at the desk yesterday, which I point out is entirely nongermane to the pending legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## SILETZ INDIAN TRIBE RESTORATION ACT

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1560.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1560) to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to

restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes.

(The amendment of the House is printed in the House proceedings of the RECORD of November 1, 1977.)

Mr. HATFIELD. Mr. President, this matter has been cleared on both sides.

It is with a great deal of pleasure that I speak once again in support of S. 1560, the Siletz Restoration Act. I hope this will be the last time I do so, for it is my hope and expectation that this body will approve the House-amended version of this legislation and send it on to the President for his signature.

Mr. President, the Confederated Tribes of the Siletz Indians were one of those tribes singled out for termination by Federal statute in the 1950's. The termination acts did not abolish the tribes themselves, but they did dissolve the special relationship that had existed between the tribes and the Federal Government, disestablished the reservations, and ended all services for the affected groups. It was hoped that this action would end the paternalistic control of the Federal Government over Indian life, and provide the impetus to assimilate Native Americans into the mainstream of the dominant culture.

As has been made abundantly clear by now in the case of all the terminated tribes, the policy did not work as planned. In fact, it was a disastrous mistake. The terminated tribes found themselves stuck between two cultures—ignored by the Government as Indians, yet lacking the economic wherewithal to successfully manage entry into the white society.

The evidence of this failure is painfully clear in the case of the Siletz Indians. They have serious medical and dental needs, their family income is deplorably low, they suffer from inadequate education, and cannot find work. The grim statistics are presented in Senate report 95–386, the Select Committee on Indian Affairs report on the version of S. 1560 passed unanimously by the Senate last August 5.

I think it is quite clear, Mr. President, that an injustice was committed against the Siletz people, and it must be corrected. By passing this bill and providing the Siletz with necessary Federal services and benefits, we will correct that injustice and give them the tools they need to become economically self-sufficient.

Unfortunately, Mr. President, this small tribe's struggle for restoration has been caught up in a larger and much more controversial debate about Indian hunting and fishing rights in the Pacific Northwest. There have been fears, largely unfounded but strongly felt, that this bill would somehow confer upon the Siletz Indians special fishing rights free of State regulation, or other rights attaching to the existence of Indian country. It has become necessary, therefore, to say what this bill does not do as well as what it does do.

First, the bill is quite explicit in section 3(c) that it "shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe."

Second, the bill does not create a reservation. Rather it establishes a procedure by which the Secretary of the Interior shall consult with all interested local parties, and those parties are listed in the bill, develop a plan for the establishment of a reservation, and submit that plan to the Congress within 2 years for consideration.

At this juncture, Mr. President, I want to point out that the bill as passed by the House does not contain the language of the Senate bill directing that the reservation plan developed by the Secretary and submitted to the Congress be given priority on the calendars of the appropriate committees of the House and Senate. The House Interior Subcommittee on Public Lands and Indian Affairs decided that since the language could not bind any future Congress, it should be deleted.

Despite this action, it is certainly my hope that the plan will be given priority, and acted upon one way or another by the appropriate committees of the two Houses as soon as possible after its delivery to Congress. Prompt action will be the most equitable procedure for all parties.

Third, in the event that a reservation is created pursuant to the plan developed by the Secretary, approved by the tribe, and approved by Congress, that act of creation will not establish any special hunting or fishing rights, as clearly stated in section 7(d)(2) of the bill, to wit:

> The establishment of such a reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation.

Fourth, the bill as amended by the House makes it clear that no Siletz reservation exists now. Language was added to this effect in response to the concern that the former Siletz reservation may have somehow survived termination.

Fifth, since the bill does not create a reservation or "Indian country," no rights attaching to the existence of a reservation or Indian country are granted or restored.

Sixth, this bill will not enhance or detract from the standing of the Siletz to press a land or water claim that they may have pending at this time or in the future. Representative COHEN of Maine expressed some concern about this matter during House debate, emanating from his interest in the Maine and Massachusetts Indian land claim cases. He received assurances in the House that this bill does not alter the tribe's ability to bring such a claim one iota, and I would like to add to those assurances.

Mr. President, I hope I have made it unmistakably clear from these remarks what this bill seeks to do. We are trying here to correct an injustice, to help a tribe help itself out of the poverty and misery brought on by the misguided policy of termination. I urge the Senate to speedily approve S. 1560 as amended by the House and send the bill on to the President for his signature, so that the process can begin.

Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I am delighted that the Siletz Restoration Act has passed Congress at last and is now on its way to the President for his signature.

I express my congratulations to Mr. Art Bensell, the Siletz tribal council chairman, and the other tribal leaders, whose long-suffering patience and hard work has been finally rewarded, and to Mr. Charles Wilkinson and Mr. Don Miller, lawyers for the tribe, who have been of invaluable help in drafting language responsive to the concerns of all parties.

I thank my colleagues on the Select Committee on Indian Affairs, especially the ranking minority member, Senator BARTLETT, and our chairman, Senator ABOUREZK, for their expeditious action on the bill.

Finally, Mr. President, I express my special appreciation for my Oregon colleague in the House, Representative LES AUCOIN, for shepherding the bill through the House with persistence, determination, and courage. I am very glad his efforts have been rewarded.

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## SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

The PRESIDING OFFICER. The question occurs on the motion of the Senator from Oklahoma.

Mr. BELLMON. Mr. President, is it necessary that the motion be restated?

The PRESIDING OFFICER. It is not necessary. It can be done if the Senator so chooses.

Mr. BELLMON. Then for the enlightenment of the Members in the Chamber let me say that this is simply a motion to commit H.R. 9346 to the Finance Committee to report it back during——

Mr. NELSON. May we have order so we can hear the Senator?

Is this the Senator's motion to refer the social security bill to the Finance Committee?

Mr. BELLMON. That is true.

Mr. NELSON. With a report-back date of what?

Mr. BELLMON. During the month of February.

Mr. NELSON. During the month of February.

Mr. BELLMON. It gives the committee a good bit of flexibility.

Mr. President, I pretty well made my arguments.

I sum up by saying that this bill was brought out from the committee the same day it was brought to the floor. We did not have copies of it until midafternoon yesterday. The committee report was put on our desk this morning. It is 180 pages long. There are many amendments to the bill that are going to be subject to points of order unless we can somehow or other get the Budget Committee together to consider all of these amendments and try to determine what their financial impact will be.

It seems to me that there is no hurry on this legislation, that it does not go into effect until toward the end of next fiscal year. There is ample time to consider the legislation in an orderly way, and I am frankly at a loss to see what the big hurry is. I believe it would be very much in the interest of getting a better bill to commit it to the committee and give them time to consider it and then take it up in an orderly way.

Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I support the motion to recommit and, in fact, I am privileged and honored to be a cosponsor of the motion.

There is no reason at all to speed this bill through the Senate, to the conference committee, and for final adoption before we adjourn here later this month, I assume.

The provisions of the bill do not become effective until October 1 of next year. Therefore, nothing will be lost by waiting until next year to give the Finance Committee ample opportunity to study this measure more carefully.

We have the matter before us. The committee report came in only this morning. Senators have not had an opportunity to study it. In addition, it seems likely that the bill is going to become something of a Christmas tree. I think in the interest of having a sound bill it would be much better if the Finance Committee had further opportunity to study this matter. Then, too, Mr. President, Congress is apparently embarking upon the largest tax-raising program in history, and this bill forms a major part of that tremendous tax increase. No one knows what the energy package is going to cost the taxpayers of this country. I would daresay, before it is over, in excess of $50 billion a year is a ball park estimate.

The distinguished manager of the bill in colloquy with me on yesterday conceded that through 1983 this bill before us would raise the tax burden on the workers of this country and their employers over and above what the present law provides and the increases provided by the present law, in just 5 years through, that is through 1983, the tremendous sum of $72 billion.

We are hopeful that Congress is going to adjourn soon and give us an opportunity to go back to talk with our constituents, talk with the people whom we represent and give them some opportunity to have some input into our deliberations. They have not had that opportunity up to now. And that is one of the main reasons why we should take a little more time to consider this matter more fully. I do not believe that the people are going to look with a great deal of favor on Congress ramming this bill through with little opportunity for individual Members to master the complexities of the legislation and to come up with sound legislation.

What is the crisis? Is there a crisis? Is there a crisis that demands action now rather than in February of next year, as the motion provides? It was established in colloquy on yesterday that there is in the social security fund at this time some $40 to $43 billion, and it is being depleted at the rate of $6 billion a year. That depletion amount really has nothing to do with it, because waiting until February will not deplete the fund 1 cent more than does action on the bill at this time, because the increases do not take effect until October 1 of next year.

So either way, acting now or acting in February, there is no difference between either form of action in the impact on the social security fund. If we are running the risk of anyone being denied his social security benefits, that would be one thing. That is not correct.

I feel that this measure, imposing this tremendous tax burden on the people, should be considered more to see if there is another angle that might be pursued. I have an amendment. I do not know whether my amendment will be ruled to be in order or not. But I want the Finance Committee to consider this if we postpone the measure until February. The bill would not stay before the Senate under this motion. It would go back to the Finance Committee where they would have ample opportunity to study it, analyze it, and then report it back in an approved fashion I would hope. But the amendment that I have to offer, if it is ruled to be in order I will certainly offer it. As we all know, the individual employees and self-employed, persons who are independent and work for themselves, cannot deduct from Federal income tax the social security payments; whereas, of course, the employer of a taxable entity is able to deduct social security taxes. But I have an amendment that would allow employees and individual self-employed persons to deduct from taxable income 50 percent of the amount they have paid in social security taxes. I think that is only fair, because the social security tax skims the money off the top of a person's earnings. He has no deductions whatsoever. He has to pay a tax on a tax, in fact, because he has to pay a tax on that income that he earns even though he pays it out in social security taxes.

My amendment would allow him to claim as a deduction—not a credit but a deduction—half of the amount he pays in social security. I think that is only fair. But that could not be acted on unless it is ruled to be not offensive to the Budget Act.

I believe we come up with a better bill. Everyone recognizes the necessity of having to do something in time, but it is a matter of timing. I do not believe there is any necessity whatsover of ramming this through at this time.

Why is this delay being provided? Well, it is being provided, as I see it—that is, the delay until October 1 of next year—to let this matter just come on the people more or less gradually, and they would not be able to put the finger on just where the increase came from.

But I believe the people are a whole lot smarter than that, and they are going to know it came from action here in the Senate right at this time, if that is what the Senate elects to do.

This will not do any violence, sending it back to the committee with instructions to report it back in February, to the bill. It will not do violence to the Committee on Finance, but it woud give us an opportunity to have a better considered piece of legislation, and I hope the Senate will agree to send the measure back to the Committee on Finance for further study and further action.

Mr. President, I ask unanimous consent that a Dear Colleague letter dated November 3, 1977, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.
*November 3, 1977.*

DEAR COLLEAGUE: We believe it would be a grave mistake for the Senate to hastily vote on H.R. 5322, the Social Security Financing Bill, in these last hours of this session. There are very significant economic costs and policy implications in this bill. All key effective dates in the reported bill occur in fiscal year 1979 which will not begin until next October 1. Thus. a postponement of consideration for three months, until February 1, 1978, would have no effect on the anticipated implementation of the key provisions of the bill. Postponement of consideration of the bill until February 1 will allow time to study the report on this bill and allow time for careful analysis. As you know the bill was taken up by the Senate the very day it was reported, and a printed report has only now been made available.

A more orderly consideration of this bill will have no impact on the solvency of the Social Security trust funds and will not adversely affect any recipients of Social Security benefits. On the contrary, the rushed consideration of the bill now underway is far more likely to produce unsatisfactory results, both for long-term solvency of the trust fund and the adequacy of benefits for beneficiaries of the Social Security system.

Under these circumstances, we plan to move to recommit the bill to the Finance Committee with instructions to report the bill back on February 1, 1978. Our recommittal motion will not impair consideration of this vital Social Security legislation. Rather, it assures orderly passage of the best possible bill in considered circumstances.

We hope you are able to join us in our recommittal motion.

Sincerely,

HENRY BELLMON,
BARRY GOLDWATER,
THOMAS F. EAGLETON,
JAMES B. ALLEN.

Mr. DOMENICI. Mr. President, will the Senator from Oklahoma yield? Is there any time limit on this motion?

The PRESIDING OFFICER. There is no time, there is no order entered on it.

Mr. DOMENICI. Mr. President, I thank the Senator from Oklahoma.

I am privileged to be a cosponsor of this motion to recommit the pending bill with instructions. I commend the Senator from Oklahoma for bringing this matter to the Senate for deliberation at this time.

I agree wholeheartedly with the Senator from Alabama (Mr. ALLEN) that there is no urgency to acting on this bill now. Having decided that in my own mind, I would like to discuss with the Senate a few of the serious liabilities that I see ensuing from proceeding with this bill so late in the session.

First of all, Mr. President, no one would disagree that this bill has come before us without a full and open debate across this land. It is a major tax measure estimated to raise anywhere from $50 to $70 billion between now and 1983. A tax is a tax whether it is a social security tax or an income tax.

We are talking about taking away from the American people, the middle-income, the rich, the poor, the businessmen of all types, a vast amount of money in new and higher taxes.

Why do we have to do this now before we even know whether or not Congress is going to impose higher energy taxes on the American people? If the House version of the energy tax bill is approved by the conference committee and becomes law, we are talking about $60 or $70 billion taken from the American people—out of the American economy—in the next 3 to 5 years.

Mr. President, the American people can only take so much. There is one group of Americans about whom we ought to be very concerned when we talk about social security, and that is the older, retired Americans.

Let me tell you, the American people who are working, the sons and daughters of the older Americans, want to help them. But if we want to trigger an anti-attitude among the American people with reference to social security then let us proceed to pass this bill in the waning days of this session. Hardly any options can be considered, because of budgetary constraints and the technical requirements of the Budget Act. Do we want to impose on the American people a steep increase in Social taxes and an additional $30 to $50 billion in new energy taxes as a Christmas present this year?

Do we want our people to wake up the middle of next year, the end of next year or early the following year, with an economy that is not working, because every time it begins to recover we impose new taxes so that they do not have anything to spend? Then we wonder why the economy is not growing. Heap all those tax increases on the people and you will have a taxpayers' revolt.

In addition, the genuine concern of the American people for a social security system that is stable and strong, which most of us want, will be in great jeopardy.

For those who want to make sure the social security trust fund remains solvent, I suggest we ought to do what the good Senator from Oklahoma recommends—send this bill back to committee. Let the Senators and the Congressmen go home; let the people digest and think about this issue, and then come back here in January and act responsibly. We should not act in isolation.

Let me state, Mr. President, there is another issue brewing, tax reform. I believe implicit in the construction of any tax reform is the acknowledgement that we are going to have to cut taxes for the American people. If we want the working people to keep working, the businessmen to keep investing, we are going to have to cut taxes.

Would it not be better if we knew where we were going in our overall tax policy rather than to say to the American people over this Christmas holiday, "We are going to sock it to you with about $60 million in new energy taxes and $70 billion in higher social security taxes, just because we are going out of session, and we wanted to do it right now," we are going to let the same conference, who are working on the energy bill, find a little time between now and Christmas to work on a social security tax bill.

I am just not willing to do that. I want it done in a more calm, deliberate manner. I do not believe that is what we are doing here today. We have been considering a $70 billion increase in social security taxes yesterday and today without a printed copy of the bill on its report.

I have no personal concern about the Committee on Finance. They generally do their job well. The facts of the matter are that no group of human beings, on my committee, could handle all the legislation they have handled in the last month—and do it right.

There is just no conceivable way that the members of the Finance Committee are going to handle the huge energy tax bill and this social security tax bill in an orderly manner between now and Christmas.

So I ask why rush this bill through at this time? I honestly believe the American people are concerned about the impact this bill will have on small businessman. Under the committee bill, the employer will bear two to three times the tax burden that his employees bear. Who do we think these people are who are going to bear this burden? They are the same people we are asking to crank up this economy. They are the same people we are asking to employ more people. They are the same people we are asking to invest more money so that our economy will grow.

Then we come along with this bill, right after the minimum wage increase, to be followed by an energy tax bill, and then maybe sometime next year or the year after we will look at tax reform and perhaps we will take away any incentive they have for future growth.

Mr. President, everyone knows the impact of this bill. I have stated it in overall figures, but it seems to me that individual Americans have to know the impact it will have on them. Some individuals out there who are now paying $900 in social security taxes—will be paying $2,000 or $3,000 by 1987.

I, for one, want to see the fund solvent; but I am not convinced we have explored, in a prudent and reasonable manner, all the options and alternatives. We are kind of stuck late in this session with hardly any flexibility. It is a kind of take-it-or-leave-it situation.

I will close with just one final comment.

In this Senator's opinion, it is good that the Senate stay on schedule. It is good that our leaders want us to get things done on time. But it absolutely is futile to insist that we can get this done by this Friday night, so that we will have completed something this year, so that we will have social security behind us, so that Senators can go home and say, "We have had a busy year."

That is absolute and utter nonsense, in my opinion. We do not have to do that. We have had a busy year, and we will be in conference on the energy bills for another month. I do not believe the American people will buy the argument that staying on some kind of schedule that says we have to finish this social security bill will make this a better year for our people or for Congress.

This is absolutely the wrong time and the wrong circumstances, for the American people or for individual Senators to thoughtfully review this issue. If I thought the trust fund were going to be bankrupt by February or March of next year, I would be saying, "Let us stay on another 2 weeks, and let us do it right." But that is not the case. So I commend the Senator from Oklahoma, the Senator from Alabama, the Senator from Arizona, and other Senators who have joined in this motion in urging that the Senate vote "yea" so that we can dispose of this matter properly.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I urge my colleagues to vote "yea" on the issue, and I do so because in my own mind I believe that the social security law that was passed in the 1930's, amended in the 1950's to be extended to the rural people of America, which has helped a good many people in my State, and which has been extended at other times, is perhaps the most important single act that was ever passed by the Congress of the United States. I think it is important that it remains sound and safe, and that whatever changes we make to it be made after careful consideration and thought, to the end that the people of America may know what we are doing.

I think our distinguished colleague from New Mexico made a very good point, that the people of America are entitled to know what the debate is that is taking place on the floor of the Senate.

Yesterday morning for the first time in North Carolina the headlines of the newspapers began to carry something about the Senate provisions of the social security amendments, and the papers had hardly hit the newsstand before I began to get telephone calls. Today's newspapers carried more, and my phone has been ringing all day, with questions such as, "Senator, what are you doing in the Senate? What effect will this have? Is this going to make the program safe?" and many other questions—questions that I cannot answer, Mr. President. I cannot answer them because I do not have the answers.

Yesterday at 1:30 p.m. this 95-page bill was placed on my desk. As I said earlier, my staff assistants had been told earlier that we really did not need the bill to know whether or not we should support it, but I challenged that, because during the same colloquy yesterday, I asked the distinguished Senator from Wisconsin (Mr. NELSON), in whom I have the greatest confidence, who is one of the most enlightened and informed members of the committee, what this $400 million appropriation for fiscal relief portended. I posed that question here on the floor of the Senate, and I did not get any answer, except that this was something that Mr. MOYNIHAN and Mr. LONG had probably agreed upon.

Well, I got my answer last night about 7 o'clock, when I finally got a copy of the Senate Finance Committee report.

I know where the $400 million is going, but I do not understand why, in the name of commonsense, it is in a bill that is designed to increase the social security tax to make it sound and solvent.

Mr. DOMENICI. Mr. President, will the Senator yield for a comment?

Mr. MORGAN. Be delighted to.

Mr. DOMENICI. The Senator was talking about whether or not we all know what we were doing, or whether we even had been told what we were doing.

In a few moments, the Budget Committee will meet. I would remind my good friend that we have three or four waivers that we have to consider for this bill, to see whether or not we are going to grant waivers under the Budget Act so that certain amendments can be considered. This bill was tailored very carefully so that it would fit the Budget Act, but hardly any of the major amendments fit the Budget Act, and a Senator can hardly get his amendment considered without calling the Budget Committee to see whether it fits or not.

I assure the Senate that confusion is rampant. Nobody is going to be able to understand it, and we are not going to get a vote today.

Mr. MORGAN. I thank my distinguished colleague for raising that question. I had intended to and wanted to, because I think it is important that the Budget Committee play a role in this legislation.

The Budget Act has been talked about all across America as the one instrument of hope toward bringing some form of fiscal responsibility to the U.S. Congress. As I campaigned across my State in 1974, and as I campaigned for my colleagues in 1976, the question of deficit spending was a paramount issue on the minds of the people of my State, and I kept saying, "At long last we have the mechanism, now, whereby in a few years we are going to bring spending under control for the first time." I said, "We have a Budget Act that is going to require us to at least know what we are spending and what the income is going to be."

Yet time and time again, since the Budget Act came into effect, I have seen waivers granted. I have seen it bypassed, and even yesterday, at the luncheon table, I heard it stated, "We cannot get anybody to serve on the Budget Committee; so and so wants to get off the committee, and we cannot get anybody to serve."

Why? Because in the short span of 2 years, it has become meaningless, because we continue to bypass it.

Mr. President, I would not want to serve on a committee that is not going to have any real effect on legislation.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. MORGAN. Be happy to.

Mr. LONG. Let me say to my able friend from North Carolina, and I hope this will allay his concern somewhat: What the Finance Committee recommended was modified in order to conform to what the Budget Committee recommended.

We wanted to raise more money and raise it sooner, because the social security trust funds are in a deficit position. But the Budget Committee advised us that they felt, with their study of economics, that if we raised taxes as quickly as we thought they ought to be raised, it would have an adverse effect on the economy. So part of the reason we are not raising more money earlier is that we followed the advice of the Budget Committee. If I had my way, we would be putting the tax rate up on January 1 of next year, just a few months from now. But the Budget Committee felt that might have an adverse effect on the economy, that we ought to wait a while, so we moved the date back until January 1, 1979.

The Budget Act is complicated, and it is sometimes difficult for me to know exactly how to comply with it. But when we are told just exactly what the Budget Act does require, we comply. The able Senator from Maine is absent for health reasons; I wish he were here because he is a very great statesman and a very able leader. In his absence the committee is being ably led by the Senator from South Carolina. When the Budget Committee laid down their terms and conditions, and they laid down what we could do, we did it as they recommended; and it seems to me, with all the advice and the experts that they have, the Senator would want to know that we have gone before the Budget Committee and have complied.

As far as the budget resolution on the bill is concerned, they rejected the version we sent them. We asked them, "What do you want us to do with our resolution? Just tell us how you want us to change our resolution, and we will do it."

Several Senators addressed the Chair.

Mr. MORGAN. I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I would only make one statement, because we are going to have a meeting on these particular waivers and requests.

It is not the Budget Committee saying what you can and what you cannot do; it is the U.S. Senate. It is the U.S. Senate and the membership itself.

I understand this is a complicated matter, the budget process, but so is the Finance Committee. I can show the Senator from Louisiana portions of the social security bill that I have had three staff men working on trying to interpret. If it is strange, that is one thing, but it is not that Budget Committee members have some strange idea of an exact pound of flesh or discipline or telling anybody what to do. It is the Senate itself trying to work into a budget process where everything is understandable and everybody knows the limitations.

Mr. LONG. The only point I am trying to make, and I hope the distinguished Senator from South Carolina will agree with this, though we have had some differences in years gone by, maybe even in months gone by, with the Budget Committee, as far as the Finance Committee is concerned, with this big bill, we are trying to help balance the budget. We are trying to raise tens of billions of dollars to make the social security system sound. It is not sound right now. That is why a lot of people in this country have reason to be concerned.

Mr. HOLLINGS. If the Senator will yield, it is not the burden or the duty or even the goal of our committee to balance the budget, but notably, this year, it is to unbalance it. We are going to be running at a $60 billion deficit, intentionally. We intentionally hope that that budget is unbalanced, because we think, in the ordering of revenues and the spending programs and the priorities of this Government, that somehow, that is the best program, fiscally, that we can present to Congress.

So, while I am a good, big, balanced-budget man just like the Senator from Louisiana, that is not the sole goal. It is trying to correlate and take the needs and demands of all the different agencies of Government itself and segments of our population and come down to where we will not hurt the economy.

That is why we are here now; we said, we need more revenues in social security; but let them not impact upon this fiscal year, because it would then cut back on the recovery of the economy itself.

Mr. LONG. All I am trying to say is that as far as we on the Finance Committee are concerned, we are in here with a big tax bill. We are asking people to vote for it. We are doing that because we think the Senate would like us to raise some money, because there is a big deficit in the social security funds and they are going to continue unless we do something about it.

Mr. BIDEN. Will the Senator yield on that?

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. MORGAN. I yield without losing my right to the floor.

Mr. BIDEN. Is the Senator from Louisiana not begging the question? Surely he came to our Budget Committee and relied on our expertise. I am delighted to hear he put so much stock in our expertise. That is reassuring.

But the real question here is that we are meeting now in the Budget Committee, not based on what you sent. We are meeting now based upon all the other items that Senators who have disagree-

ment with what you sent to the Budget Committee and to the floor want to introduce. So, as a practical matter, by "letting you know"—you, the Finance Committee—that we on the Budget Committee say, yes, this falls within the budget constraints, we have opted out every other option. What we have done in responding to our duty—and as the Senator from Louisiana has skillfully pointed out—he has enabled the Senate to act on nothing else but what he has sent to us by use of the Budget Committee mechanism, because now, anyone else who wants to move in with a different, alternative, or increased tax base will have now to go through the mechanism.

The reason why I am going to vote to recommit and join the Senator from Oklahoma is not because I agree with the Senator from New Mexico, who raises all these other items. It is very simply because I do not know what in the heck this bill does. I do not know whether I am helping those dear old folks or hurting those new young beautiful people.

I am not worried about the old folks on this, quite frankly. They are going to get their check. What I am worried about is me. I am worried about my kids. I am worried about what in the devil they are going to pay. What am I committing them to pay? What am I committing them to do?

The old folks are in good shape, solvent or insolvent. The 65-year-old people sitting in the gallery do not have anything to worry about, I can guarantee them. But all of them up there who are 18, they had better watch their pockets. They had better cover them up real tight. Because I do not know what this does. Neither do most of the other people on this floor.

So I am going to vote to recommit, because I am worried about the young folks. I am going to vote to recommit because I am worried about this already having been a busy year—busy enough. We do not have to go back to the folks to tell them how busy we have been. They can look. They may not think we have been productive, but they know we have been busy.

Last, the impact of this bill: I do not know that anybody knows. In February, I may come back to ask the chairman of the Finance Committee and ask the Senator from Wisconsin, "Let me join you, you were right all along. Mea culpa, mea culpa, mea maxima culpa. How could I have not known it?"

I have not had a chance to read it. I do not know. So I am hoping to recommit, despite the brillance of the Senator from New York and the Senator from Louisiana and the Senator from Wisconsin, who may be absolutely right. But when we got this yesterday, I began to worry.

I say one last time to you, Senator, when we have a debate—and I hate debating you, because I seldom win. Whenever I get through speaking to you, I have a real warm feeling inside, but it is not until I get home that I find out what happened. [Laughter.]

I really feel like I did it. I feel like I have been a success. I tell them I went down.

My newspaper said, "Boy, he got up there and spoke." But my Lord, I never know what hit me. Sometimes I know it is good. Sometimes I find out it is bad. I want to wait and find out, and February is plenty of time.

It does not go into effect until next year anyway, and there is not an old person in America who is going to be in jeopardy of not receiving their check within the next 3 months. It is just not the case. So let us find out what we are going to do to the young folks, too, before we pass this bill. I am going to vote to recommit it.

I thank the Senator from North Carolina for yielding this time to me.

Mr. LONG. Will the Senator yield to me?

Mr. MORGAN. Without losing my right to the floor.

Mr. LONG. As far as the Senator from Louisiana is concerned, and as far as others on the Finance Committee are concerned, we voted the bill we thought appropriate. There were some other amendments we knew would be offered, like the Curtis amendment. That mustered a very strong vote in committee. We knew these amendments would be offered and, in fairness, we asked the Budget Committee to grant a waiver so those Senators could offer their amendments. We asked for a waiver on the Curtis amendment; we asked for a waiver on the Dole amendment. I am not supporting that amendment, but it lost on a tie vote in the committee. We thought since we voted on it in the committee, the Senate might want to vote on it too. That amendment would lift completely all earnings limitations so a person might be practicing law and making $150,000 a year, and still get his full social security benefit at age 65.

We said to the Budget Committee, let the Senate vote on those and other amendments, too. The Budget Committee said, "We cannot even give you a waiver on some of the things the Finance Committee agreed to. Knock those out. We don't think we can give these other Senators a waiver, either." As far as I am concerned, once the Budget Committee let us bring our bill out, I cannot complain that you turned everybody else down. But at the same time, I would say to you let your conscience be your guide, do whatever you want with the matter. But do not complain about us not doing what the Budget Committee asked. We bent our knees to the Budget Committee.

Mr. BIDEN. I am not complaining about that. I am just saying how it worked.

Mr. LONG. We prostituted ourselves—wait; excuse me. We prostrated ourselves. [Laughter.]

Mr. BIDEN. The Senator is an honest man.

Mr. LONG. We prostrated ourselves before the Budget Committee and took that to the committee. I do not know why we are fighting over that.

Mr. MORGAN. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. MORGAN. I shall conclude momentarily, because my distinguished colleagues have made my arguments very ably and much more eloquently than I could.

I say to my distinguished colleague from Louisiana that he may understand all about the budget process and this present bill, but how about giving the rest of us on this floor an opportunity to study it and understand it ourselves? When I cast my vote on this bill, and when the clerk tallies that vote, it is going to look just like that of the distinguished Senator from Louisiana. I want an opportunity to know what it is that I am voting on. I do not question the fact that those of you on the Finance Committee may know, but all I am saying is, please give us an opportunity to know.

I thought the rules of the Senate were made for the purpose of enabling us to do just that. That is what I understand the 3-day rule on a committee report to be. I do not quite understand how we got on it before the report got here, except maybe we laid the House bill down and then we substituted it. We circumvented the rules. I guess sometimes I think that is what rules are for, to be circumvented.

All I am saying is please give us an opportunity to study it. There are some assumptions in this bill which I am not sure that I agree with.

My staff has been trying to work on them and to give me some advice.

For instance, as I understand it, some underlying assumptions in the entire bill have to do with economic predictions, predictions of inflation, of the birth rate. For instance, it talks about economics. The figures are assuming an unemployment rate at 5 percent per annum and an inflation rate of 4 percent and a wage increase of 5.75.

Well, we have not reached these figures yet. We do not know if we are going to or not. Until we have some opportunity to study it, I do not know whether they are realistic predictions, or not.

It talks about the birth rate of the country, using as an assumption a birth rate of 2.1 children per woman, but currently the birth rate in this country is 1.7, and has been declining for 120 years.

I can only assume that the Finance Committee took into consideration a birth rate that would normally be required to maintain a constant population, but it is well known that the birth rate has not normally increased with influence.

It talks about the mortality rate. It uses an average life expectancy to be 70.8 years for men and 79.6 years for women. Yet in some countries in Europe, we know that it is greater than that.

I come back to the $400 million fiscal relief program which, the best I can figure out from reading the report, is that it is sort of a handout to my State and to other States in an effort to ease some of the burden of carrying out the welfare programs.

I can understand the distinguished Senator from New York's concern about it, but the President has sent to the Congress a welfare reform bill that takes into

consideration this very measure. Why should this matter not be considered in the question of welfare reform rather than the question of social security financing?

Mr. MOYNIHAN. Will the Senator yield?

Mr. MORGAN. In a minute.

But I know it is going to give some money to my State. I have had welfare superintendents, or social workers, or whatever their official titles are, come up here and urge me to vote for it.

I find today it originally started out to be $1 billion. I know when word gets back home tomorrow that I am here arguing against a $7.5 million appropriation for North Carolina, some of my people will say, "Why are you doing that?"

But, Mr. President, there comes a time, if we are going to be fiscally responsible, that we simply have to take the responsibility.

I just happened, while I was waiting for this matter to come up, to clip a letter to the editor in the Charlotte Observer in which it says, "Let's Say No to Federal Expenditures."

I will read just a bit of it. It says:

I would like to challenge local and state government to refuse to accept a penny from the so-called federal largesse and replace it with realistic taxes and fees to meet their needs.

If all local and state government would agree to target 1978 as the year of divorce from dependence on federal handouts, a net savings of some 25 percent of the bill, or over $35 billion, would be realized.

It goes on to make some good arguments, and I agree with it. Maybe this is not one of those to turn down, but it is the wrong time and the wrong place and the wrong bill.

If I am wrong in these assumptions, then let us have 2 or 3 months to consider it and to study it. If I come back after doing that, and I am wrong, I will be willing to say so.

Mr. President, I urge that we adopt the motion of the distinguished Senator from Oklahoma so that whenever we do pass a bill we will not have to come back, as we are doing in this very bill, and make technical amendments for errors that were made 5 years ago, because I assure Senators that if we pass this bill this week we will be coming back correcting mistakes and errors we overlooked that we should not have.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, I will speak very briefly.

I had considered voting to put this bill back in committee. I had considered the concept of delay until next year. But it seems to me that this is an unpleasant, difficult task that we have to do now or we have to do it next year. We have to do it.

If the reading of the report which was available only recently slows us down so that we might have to work on into the next several weeks during some of these sessions that we have to come back to vote on, if we need more time as a full Senate to look at each provision, it seems to me that, unpleasant as it is, we better do the job.

Why will a delay hurt? I can think of one provision, at least, in which a delay will hurt.

There are old people who clip coupons and do not suffer any reduction of their social security check at all, while there are old people who have to work and if they earn at the rate of $3,000 a year, they lose their money.

They lose money and a delay of several months could lead to a delay of 6 months or a year more.

There are those people who could use some relief, whether we go for a complete removal of the cap or a lifting of this ceiling.

Those people deserve some relief now.

This is an unpleasant job that we ought to stay with until we do it properly and send this bill to conference.

That is why I am not going to vote to delay.

Mr. BELLMON. Will the Senator yield?

Mr. STONE. Yes.

Mr. BELLMON. If the Senator will look at the provisions of this act, he will find it does not offer any immediate relief to any recipient. It does not go into effect until the late fiscal year.

If we come back in February, we can deal with the question and get the relief to the people.

Mr. STONE. I think people would like the reassurance to know, and furthermore, there are some amendments that will be offered. I know the senior Senator from Arizona has one in which the Senator from Florida will join in which that relief ought to be vouchsafed and guaranteed to these folks.

I just feel we ought to stay with it. I do.

Mr. GOLDWATER. Will the Senator yield?

Mr. STONE. Yes.

Mr. GOLDWATER. The Senator mentioned a point I have noticed for many years, the fact there are some older people who clip coupons and collect social security, but they can collect the entire social security.

Mr. STONE. That is correct.

Mr. GOLDWATER. Now, the fellow that retires without any pension, without any securities, without any real estate, who cannot live, frankly, on social security, has to suffer $2 for every dollar he makes over $3,000.

Mr. STONE. That is right.

Mr. GOLDWATER. I think this is morally wrong, and I am not going to stand still and hear Mr. John Califano tell falsehoods about efforts to make it possible for American people to live.

I think it is time we do remove that earnings limitation and I am hoping the Budget Committee this afternoon will find in their good judgment to give us a waiver so that we can at least overcome that hurdle.

But I differ with my friend in that I want to vote for it, sending this back to committee. I think we have to have more time.

In fact, if we had more time, I think people downtown will begin to realize how wrong, wrong, wrong they are when they are dealing not with Federal funds, these moneys do not belong to the Treasury. These are funds that all of us have put in a trust, supposedly.

I asked the committee yesterday where the money is. They do not know. I have been here 25 years and I have not found out.

So I do not see where taking a few more months, added on to 25 years, is going to hurt anything.

I think we would come up with a piece of legislation that we could work on.

In fact, I have been amazed ever since this bill finally hit the floor to find out that it is going to amend the Tariff Act for istle—whether one speaks Spanish or English, for the edification of my colleagues, it is from the cactus and we use it in the Southwest to make baskets. I think the social security people may become a basket case. [Laughter.]

So this would be a proper place to amend it.

I thank the Senator for yielding.

Mr. STONE. I thank the Senator. We may differ on the immediate decision as to whether or not to delay, but we certainly do not differ on the inequities of the current situation and the need for reform with respect to people who need to work and are denied that by a rule which is totally arbitrary and which deserves to be changed.

I thank the Senator from Arizona.

Mr. CURTIS. Mr. President, as I understand this proposal, it is to postpone this matter until certain people understand it. That is equivalent to an indefinite postponement. [Laughter.]

Are we going to take the position that we are going to send back to the committee every intricate piece of legislation that comes from the Armed Services Committee, until we all understand about bombs and weapons and so on? Or are we going to follow the committee system, whereby matters are referred to a committee; they hold public hearings—they are public, all right; and arrive at a conclusion and bring in legislation? Are we going to recommit every proposal related to the space program, until we all get our Ph. D.'s in physics?

Let us now think about the financial condition of the social security system. In the long range, it is about 8-percent short. There is a provision in here that takes up half of that. The paragraph that describes it is less than a half page. We do not need until February to study that.

It comes about in this way: An amendment was adopted in 1972 that provides that there shall be an increase in benefits for older people automatically, because oftentimes the inflation took place and Congress was delayed in passing a bill to raise their benefits. So it is automatic in there.

It turns out that what it does is to include it twice. This automatic cost-of-living raise is given to a future retiree once, when it is woven into his benefit formula, and then after he goes on the rolls, he gets it again. The professionals refer to that as decoupling. That is corrected in this bill, which sought to be recommitted. It takes care of one-half of the deficit.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. CURTIS. I yield.

Mr. LONG. To put it in terms that the layman would understand, there is a provision in the law for an automatic cost-of-living increase that works out for the benefit of some people so that in effect they get a double dip. They get an adjustment twice for the cost of living.

Mr. CURTIS. That is right.

Mr. LONG. This was an unintended windfall for certain people. We do not propose to take it away from those who are getting it. We say that those who retire in the future will not get the double dip.

Mr. CURTIS. That is correct. That is in the bill now. It takes care of half of the deficit.

There are some welfare provisions in the bill before the Senate. One has to do with how you handle the disregard for earnings for a welfare recipient. The way the formula works now, it is very loosely drawn. It means that when individuals with rather high incomes go on the welfare rolls, it not only costs the Government a great deal of money but also embarrasses every Member of Congress who reads the paper and hears that people who are not in need are on welfare. That is taken care of in this bill.

How much will it save? $230 million annually.

Mr. President, there is a provision here that initiates some quality control and incentives to reduce erorrs in the administration of welfare. I could go on and name a great many other provisions in this bill.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. BELLMON. I believe the Senator is making the point that the Senator from Oklahoma is trying to make. This may be a wonderful bill, perhaps the best bill that ever came before the Senate, but why do the job quickly? We only got it yesterday and got the report this morning. Why is the committee not willing to give the Senate time to consider what would be done and perhaps improve on the committee's handiwork? So far as the recipients are concerned, there is no reason not to wait until February. Their benefits are not going to be affected until late next year.

Mr. CURTIS. The answer is that I have nothing to do with scheduling legislation here.

Furthermore, we have worked on this matter for months. It creates more complications if the committee is required to do its work twice.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. LONG. I ask the Senator if this also is true. In 1972, some people thought —and there was some merit to the suggestion—that we could afford more benefits than we were paying. They contended that our assumptions about prices and wages were static and that if we adopted certain dynamic assumptions, such as the fact that wages will go up and productivity will increase, we really could afford to pay 20 percent more in benefits than we were paying and the automatic cost of living increase provision would go along with it.

With the Commissioner of social security saying that this could be done and that you could afford a 20-percent increase and could afford the automatic increase feature, an amendment was offered. The Advisory Committee for Social Security recommended it, and everybody was told, with the support of the Commissioner of Social Security, that this could be afforded.

I voted for it. Subsequently, we found that the result was that we were headed for a big deficit and that eventually the fund would be insolvent.

Is it not about time that, whenever we can muster enough votes, we should vote enough revenue into that fund so that from that point forward, we would not be projecting bankruptcy or insolvency in the social security fund? Then all the people who are counting on it could have peace of mind about the matter, rather than have those people told, day in and day out, month in and month out, that the program is not solvent and eventually the fund will go broke.

Mr. CURTIS. I believe that is true. I think there is an uneasiness over the country about the $6 billion deficit yearly in our social security fund right now. That should be met and settled right now.

The long-range program is half taken care of in here, without either the tax increase on employers which Senator NELSON proposed, or the general tax relief that I proposed. It is already taken care of. With respect to welfare, the $230 million saving becomes effective immediately.

I have great respect for the Budget Committee. I am very fond of every member. But I stood on this floor, trying to get some amendments adopted to the food stamp program. They would have saved $2 billion. I never got a vote on the majority side of the Budget Committee.

I was here last week when a floor amendment was offered that cost $1 billion. But when the Budget Committee challenged the Finance Committee, they particularly exempted all of those that had been voted on on the floor.

Another thing, Mr. President: The tax proposal that I offered——

Mr. LONG. Mr. President, if the Senator will yield at that point, let me make clear that we do not have any problem with the Budget Committee on this bill.

The way I understand it, there are some Senators who wish to offer some additional amendments which the Budget Committee can either waive or not waive. I am not here to tell them what to do about that. I trust their good judgment and commonsense to do what they think is right about it.

But we on the committee are not asking for any special exception. They have given us all the latitude we need to propose this bill and they gave Senator CURTIS a right to propose his amendment which was a very good amendment. I thought it was better to do the financing the way Mr. NELSON recommended. But they gave us the authority to recommend what the committee wanted to recommend to the Senate, so that we do not really have any conflict with the Budget Committee on this bill. With regard to Senators who wish to offer additional amendments, they can do it however they want to do it. If the Budget Committee wants to give them a waiver, we do not complain; on the other hand, if the Budget Committee in its conscience feels it should not give a waiver, then, of course, the Budget Committee is within its rights.

Several Senators addressed the Chair.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. CURTIS. I am going to yield the floor in just a minute, and then the Senator may have it.

Mr. President, if I thought that there would be a material increase in the courage of us all to meet this problem of social security financing by waiting a few months, it would be worth waiting. There will be the same Senators with the same ideas here in February as here now. Some of them feel no harm in taking from the social security pension. Some of them think that it is not important that we adhere to the pattern that we have had for four decades of employers paying half and employees paying half. That is not going to change. We cannot run away from this problem by sweeping it under the rug for 4 months.

Mr. President, again I remind Senators that in the long range the 8-percent deficiency in the financing is taken care of in this bill before us and in the welfare program there is a provision in here that if it is not changed on the floor will save $230 million as well as there are many items in this legislation that means a great deal to the people who fall in that particular category.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, as a member of the Finance Committee, I rise in opposition to the amendment offered by the Senator from Oklahoma.

It has been said here that no one really understands the bill. As a member of the Finance Committee I, too, admit that I do not know all about the bill. Perhaps if there is anyone who knows all about the bill that is the chairman, the Senator from Louisiana. There is an old saying, "He who knows and knows he knows is wise; follow him." I am willing to follow the Senator from Louisiana. I worked with him for months on this bill. There were some differences. What we arrived at was the only bill as to which we could get a majority vote in the committee.

Little as I know, I know this for sure, that the social security program is on the verge of bankruptcy, that we must now do something about it in order to retain the confidence of the American people in that great system which has brought more security, more well-being to the elderly than any program in the history of this Nation. We cannot let it die. This year the deficit will be between $5 billion

and $6 billion. The disability funds will be exhausted by 1979. And the old age and and survivors insurance funds will be exhausted by 1983.

The Secretary of Health, Education, and Welfare testified that between 1978 and 1982, an additional—I repeat—an additional $83 billion over and above the projected income under current law will be needed to keep the program solvent.

Clearly, the social security program is on the verge of bankruptcy. It is absolutely imperative that the program be kept solvent. More than 33 million Americans, 1 out of every 7, receive social security benefits. Ninety-three percent of Americans 65 years of age and over are eligible for benefits. These benefits now exceed $100 billion a year. Millions of Americans depend on social security benefits as their only source of income. It cannot be denied that the present deficits in our social security system jeopardize the confidence of the American people in our system. In order to keep our social security program alive, we cannot lose the confidence of the American people. Many even today have the option of dropping out of the system, causing more and more to be drawing benefits but less and less putting into the system, which means what? Which means greater and greater deficits and ultimate bankruptcy.

We must act this year. We must act within the next few days and if it takes Saturday to get this bill out we must get it out.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MATSUNAGA. In a minute.

This is the primary objective.

Second, the administration is now working on a program of tax reform. Unless we pass this bill out the administration will not have a basis on which to develop a new tax reform act. And if we pass this bill out the administration will have a much easier task in developing that new tax reform bill.

So I urge my colleagues to let us act today; if not today tomorrow; if not tomorrow, Saturday, to get this bill out.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I would be happy to yield to the Senator from Alabama.

Mr. ALLEN. Will the Senator explain how action this month as distinguished from action in February will contribute more to the solvency of the fund inasmuch as the bill does not provide for any additional revenue to come into the Treasury before or starting October 1 of next year? How will action now be an improvement over action in February since the bill does not start until October 1 of next year?

Mr. MATSUNAGA. Well, the Senator from Alabama reminds me of a young man who applied for a job. When he was told he would start, he was told he would need to start at the bottom, and he said, "Well, I am not concerned about that. What about next year? What about the year following? Can I look forward to a promotion and maybe some day become vice president of the firm?"

Well, what we are dealing with today is something more important than the tangible the Senator refers to. It is the intangible of the confidence in the system which we need to develop even this day because, as the Senator well knows, when you go back to your home State one of the questions asked most of us is "Is it true that our social security program is bankrupt? Is it true that I may not be able to depend upon my social security when my time comes?"

Well, if we pass this bill this week, we will regain that confidence so that we can say when we go back to our constituents, "We passed that bill. Now you can rest with confidence."

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ALLEN. Will the Senator explain how action now is going to bring that about?

Mr. MATSUNAGA. I will yield to the wisest of the wise to answer that question.

Mr. LONG. I would just like to get in on this, if I may, because I think my contribution might help a little.

The fact is that in 1972 we received some bad advice. It was well-intentioned advice, but it proved to be unsound. The advice was that we could afford a 20-percent increase in benefits and an automatic cost-of-living provision.

Now, you cannot do any better than act on the best advice you have, but the advice was that we could afford to be more generous than was in fact the case.

For the past 3 years, this program has been projecting insolvency because there is not enough revenue to fund all the benefits.

Why did not President Ford get the thing under control while he was President? Well, the fact was that he had all the problems on his hands he could handle, and more than he could, it turned out. He was trying to get himself reelected, and he was in no position at that particular moment to come in here and recommend the sort of tax it would take to make the social security program solvent for the next 75 years, as we are seeking to do.

If anybody here could tell us that there would be some increase in political courage on the part of Senators and Members of the House during the next 3 months, or the next 4 months, then I would say by all means let us wait for the political courage to rise to meet the challenge.

But knowing what the realities of life are, I know that the nearer every Member of that House gets to election, and the nearer every Senator who is running next year gets to the election, the more difficult he is going to find it to vote for the taxes to make this program solvent and to fund these benefits, no matter how politically and fiscally responsible that may be.

So the result is that as far as making the social security program fiscally solvent and responsible is concerned, we ought to do it whenever we can. If we can do it now, let us do it. If we can do it 3 months from now, do it then.

But anytime you can muster enough votes, and those men can find enough courage to vote the taxes it takes so that the people who pay into this program will get the benefits they were promised, you ought to do it, and you ought to try to resist these efforts to say, "Oh, no, not now. I cannot vote for it right now. I am going to vote for it next year. No, no, not now. I would rather wait and think about it some other time; no, no, I would like to study it." You must resist those pressures if you can because the easy way out for the average politician, or even the average statesman, confronted with the duty of voting a big tax to do something that responsibility requires, the biggest problem is procrastination on the part of people who must seek public election. They will want to pass it off and postpone it, put it off until next year, put it off until 6 months later, and never get around to measuring up to that tough decision.

In my part of the country they have an expression that is also common in the part of the country so ably represented by my very lovable friend from Alabama, Mr. ALLEN. They talk about "come up to that lick log."

I once asked Lister Hill, "What does it mean to come up to that lick log?"

He said that when some farmers would get together to try to clear some land, cut down some huge tree before they had a bulldozer or something like that to try to haul that tree off and clear the land, they would have to cut that tree up into sections so that they could manage it and haul it away.

So those men would stand there all day chopping on that tree, cutting it up into sections. The tree might be 80 feet high. They would chop all day long, chop that tree up into manageable sizes so that they could haul the tree away with their mules. That is what they called the lick log. If some fellow wanted to stop, and he would rest against a tree while the others would be chopping, they would say, "Come up to this lick log, you lazy so and so. You have to put your licks in with the rest of us."

So basically we are calling upon Senators and upon Members of the House of Representatives to come up to that lick log. You are going to have to vote for a tax if this program is going to pay benefits for these old people, the disabled people, and the widows and orphans who were promised those benefits, and you had better do it any time you can.

If you can get the votes now, do it. If you think it would be any easier on you to wait another 5 months until you are just that much closer to the election, and all those people in the House are 5 months closer to the election, then I would say the Senator is just not the political realist some of us are. The sooner you can vote on it, the better off we all are.

Mr. MATSUNAGA. The Senator from Louisiana in a most interesting and persuasive way has just said what can be summed up in these words: What you can do today do not leave until tomorrow. I think we can do it today.

I would be happy to yield to the Senator from New York.

Mr. MOYNIHAN. I thank my distin-

guished colleague on the committee, the Senator from Hawaii.

Mr. President, I would simply like to add to the observations of our distinguished chairman. He asked a question as accurately as it could be put. I might rephrase it as follows: The question is being asked of us on the floor today, Why do we not put this job off until next year; Why do we not do it next year?

The real question, Mr. President, is, Why did we not do it last year? The social security trust fund has been insolvent for at least 4 years. We have known it. We have put it off and put it off. Last year surely it was clear. Why was it not done? It was because it was an election year. Why will it not be done next year? Because it is also an election year.

The measure of responsibility of this body as trustees for the income of 30 million aged, frequently indigent, sometimes minority Americans, the measure of our statute of men, as responsible persons capable of prudent foresight, is to act now.

We failed last year. Next year we might very well fail again. Those who wish to associate themselves with the avoidance of this responsibility today risk being considered persons not capable of responsibility.

I think the chairman and his distinguished associate from Nebraska, Senator CURTIS, are altogether right and responsible, and if there are those of us in this body who do not have the courage to lead, if there are those here who do not have the courage to lead, let us at least have the wisdom to follow.

Mr. ROBERT C. BYRD. Mr. President, I shall shortly move to table the motion to commit, but before I do so I would not want to prevent from speaking on the motion the distinguished Senator from Kansas (Mr. DOLE) who, I believe, is one of the cosponsors of the motion and, perhaps is supporting——

Mr. DOLE. I am not a cosponsor.

Mr. ROBERT C. BYRD. Does the Senator wish to speak? Mr. President, I yield to the Senator from Kansas without losing my right to the floor, with the expectation of making the motion to table the motion to commit.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATHAWAY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. President, I ask unanimous consent that Charles Jacobs of Senator MUSKIE's staff may have the privilege of the floor during the debate and votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, could I have some understanding from the Senator from Kansas as to how long he will speak?

Mr. DOLE. I may decide to read the 180-page committee report, but the Senator from Kansas has not at this time decided.

Mr. ROBERT C. BYRD. Very well, I yield the Senator not to exceed 20 minutes, with the understanding that I retain the floor.

Mr. DOLE. Mr. President, the point that bothers the Senator from Kansas, the Senator from Texas, the Senator from Arizona, and other Senators who have not heard the news, is that a number of us have lost our waiver requests in the Budget Committee. It is fine for the chairman to stand up and say he got what he wanted, and for other Senators to stand up and say they got what they wanted. However, I have always been under the impression that in the U.S. Senate a Senator had a right to offer amendments unless they were not germane for other such reasons. Now we are told we cannot offer amendments.

I know what is happening in the Budget Committee. They are about to turn down requests for waivers for the amendment of the Senator from Kansas, the amendment of the Senator from Arizona, and the amendment of the Senator from Texas.

Mr. President, the issue is just not that simple. My remarks about the Budget Committee are not precipiated just because I happen to be the one involved in an amendment today. A number of Senators want to try to help some senior citizens in this country. It is unfortunate some members of the Budget Committee vote in a way to influence the outcome of certain legislation. In the Finance Committee the chairman indicated that we would have a chance to bring up all amendments.

We will bring up the amendments one way or the other. If the motion to recommit the bill fails, there are other ways to postpone action. They take longer, it takes more effort, but and I think I can speak for the Senator from Arizona—unless there is some agreement to bring up our amendments, then we have no recourse but to discuss this bill at length in order that the American people will understand there are some Senators concerned about the earnings income limitation. We think we ought to have an opportunity to offer an amendment on earning income. It appears the waiver will be denied by the Senate Budget Committee, because the administration is opposed.

My amendment was offered in the Finance Committee, and failed on a 9-to-9 vote. It was included in the presentation that we made to the Budget Committee, but then, in an arrangement worked out by the chairman of the Senate Finance Committee and the acting Budget Committee chairman, it was eliminated. There are several other amendments in the same situation—this amendment, the amendment of the Senator from Delaware (Mr. ROTH), and some others.

What we would hope to do by the amendment is raise the limitation on earnings as follows: to $4,000 in 1978, to $4,500 in 1979, to $5,000 in 1980, to $5,500 in 1981, and unlimited earnings in 1982.

This amendment was adopted on the House side by a vote of 268 to 149. There were no budget objections raised on the House side, but it is obvious—the Senator from Kansas has just attended the Budget Committee meeting—that there is not going to be a waiver granted by this Budget Committee, because they are opposed to the amendment. Unfortunately, it is not the Budget Act they are concerned about; they are opposed to the amendment.

The Senator from Kansas is not disposed to rush this bill. Frankly, I do not think it makes much difference whether we vote on it today, on January 17, on February 15, on Washington's Birthday. We should have an opportunity to offer our amendments. If they lose on the floor, that is fine. We should not be shut out by some budget process that is vague; my amendment is cheaper, in the first years, than what is contained in the bill. The Budget Committee did not object to what we have in the bill. In the first 10 years, the committee bill costs $24.8 billion, while the amendment of the Senator from Arizona (Mr. GOLDWATER), the Senator from Texas, and the Senator from Kansas, and other Senators, would cost $24.9 billion—a difference of $100 million in 10 years. But somehow our amendment is not to be heard on the floor.

It will be heard on the floor, but not through the regular process. We are left to our own initiative and judgment as to how we can best present this amendment to the Senate of the United States.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. TOWER. I associate myself with what the Senator from Kansas has said. If for some reason we are barred by unfavorable action by the Budget Committee, or by the raising of a point of order that is made to lie against our amendments, so that we cannot get a debate and a vote upon the amendments on their merits, then I think we have no other recourse but to keep the Senate here on this matter for the remainder of this week, all through next week, and however long it will take. So I would anticipate under those circumstances we will no doubt have a Saturday session, a Monday session, and perhaps a Tuesday session.

Mr. GOLDWATER. Mr. President, Will the Senator yield?

Mr. TOWER. Because on a matter of this great importance, when we are looking at the long-range efficacy of the social security program, since we cannot get an adequate period for deliberation by the Budget Committee on a matter of this importance, I think, rather than clear the matter just for the sake of acting on it, we had better have some extended debate on it, and extended deliberations, and see if these amendments cannot be deliberated on their merits.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. TOWER. I do not have the floor.

Mr. DOLE. I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I associate myself with the remarks of the Senator from Kansas and the remarks of the Senator from Texas. This earnings limitation amendment is nothing new. I have proposed it in the last three

Congresses, and have not even been given the courtesy of an invitation to appear before the committee, nor have the members of the American public who are interested in abolishing the earnings limitation. We have come out here on the floor, on an amendment like this, and I want to read from the minority views of Senators CARL T. CURTIS, CLIFFORD P. HANSEN, ROBERT DOLE, and PAUL LAXALT, the first sentence in the second paragraph:

However, action should not be precipitate or foolhardy.

But that is exactly what we are doing. This report was on my desk this morning. I have not had time to read through the whole thing. Now we have the majority leader standing up and trying to move to table a motion to recommit.

We have heard a lot of chatter on this floor this afternoon about political courage. To me, it does not take any political courage to vote for a motion to table. I wish we could do away with motions to table. Why not vote these things up or down, in a fashion our people understand?

I do not criticize the majority leader. It is certainly within his rights to move to table. It is a Senate rule. But I do not like to hear talk about political courage on the part of U.S. Senators followed by a motion—the easiest, the most cowardly way to get out of voting on a hot measure I have ever heard of—to lay on the table.

I agree with my friends from Kansas and Texas that if we are going to be denied what I consider our right to offer an amendment without having similar objections made, this Senator lives 2,200 miles away, but I can stay here till hell freezes over, and I will be glad to do it to see a decent bill passed.

Mr. THURMOND. Mr. President, will the Senator yield half a minute to get somebody on the floor?

Mr. DOLE. I yield.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Skip Cowan of my staff be accorded the privilege of the floor during the consideration of this measure.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from Kansas has the floor.

Mr. DOLE. Mr. President, I will take 2 or 3 additional minutes.

First, I ask unanimous consent to add, as additional cosponsors who were original cosponsors of this proposal, the names of the distinguished Senator from Oklahoma (Mr. BARTLETT), the distinguished Senator from Alabama (Mr. ALLEN), and the minority leader, the distinguished Senator from Tennessee (Mr. BAKER).

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the Senator from Kansas has indicated what he believes to be the right course of action. Unless we can have an opportunity to present our views and our amendment, we will have no alternative. The Senator from Kansas believes this is a responsible way to proceed. Based on a conversation with the distinguished ranking Republican on the Budget Committee, who may vote against granting the waiver, I believe the waiver will not be approved. It appears the die has been cast. The Senator from Kansas thinks the Budget Committee will resolve the matter.

In any event, whether the resolution is granted or disallowed, the Senator from Kansas, in an effort to be fair with his colleagues, serves notice that unless we can offer our amendment, to discuss our amendment for a reasonable length of time—30 minutes, 45 minutes, an hour—then have a vote on the amendment, we are prepared to speak at length. The Senator from Kansas is not in a habit of such conduct, but we can learn.

Mr. NELSON. Will the Senator yield?

Mr. DOLE. Yes.

Mr. NELSON. I say to the Senator from Kansas that, as he knows, the Finance Committee did recommend that a waiver be granted on that amendment. But the most convincing thing, as far as I am concerned, was a comment by the Senator from Texas. If the Budget Committee does not issue a waiver. I am going to vote to take up the legislation, because I cannot think of anything more frightful than listening to the Senator from Texas for a whole week. So at least the Senator from Kansas has my vote, so we can be saved from that.

Mr. DOLE. We will take it any way we can get it, and that is very helpful.

If the Budget Committee disapproves the resolution, we have a right to bring that to the floor and have the full Senate act. We can make a recommendation; if they fail to grant a waiver, we can only proceed on the floor or move to discharge the committee from further consideration.

Mr. President, I hope that the Senator from Kansas has responsibly made a point. I don't want to hold up the bill and hold up the Senate of the United States.

There is about as much to be said on one side as the other on the issue of postponement. This is a very important bill. It should be fully understood. Those of us on the committee have an advantage, because we have listened to the distinguished Senator from Wisconsin. We think we understand most aspects of the bill and all the amendments based on what happens after the motion of the distinguished majority leader, we can then chart our course. I thank the distinguished Senator.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield, without losing my right to the floor, to the Senator from South Carolina so he may respond on the point made by the Senator from Kansas. Then I shall yield to the Senator from Connecticut.

Mr. HOLLINGS. Mr. President, I only now came to the floor to hear something about discharging the committee; that, somehow, the Budget Committee itself was either lethargic or being obstructive or otherwise.

I want to clarify the Record that the Budget Committee has been most diligent. It met all yesterday. The day before yesterday, it got together with the Committee on Finance, at that particular time, being asked for a formal waiver for not only the bill but also five or so amendments.

Under the rules, not being allowed to amend the waiver resolution, rather than acting in just a unilateral fashion, we then asked for a meeting with the leadership and with the Finance Committee. We had that meeting. We said we could recommend approval for the bill itself because the Finance Committee was doing exactly what we had requested: namely, that somehow, revenues be obtained to maintain the financial stability of the social security system in the country. But in no way could we recommend approval for all these other waivers that went into $4 billion, $8 billion, and so on, in ensuing fiscal years, without a witness, without a chance to hear or not hear or give any kind of objective consideration.

My understanding is that, somehow, the Finance Committee members were told that the Budget Committee was arbitrary and was not going to consider them individually. The fact is that we requested the distinguished chairman, with the leadership present, that we have an opportunity to review certain resolutions—not only for the bill itself, but for the five amendments.

Now, we were given back the resolution with the Curtis amendments. We have acted on those. We are prepared, as the distinguished Senator from Kansas knows, because he was just at a meeting of the Budget Committee, and it was at request of the Senator from Kansas on the Budget Committee's request that we withhold action.

Here he is talking about discharging the committee, that the committee is not doing its job, when we are frankly responding to the Senator from Kansas.

He has to smile. I wish the record would show a smile on the face of the Senator from Kansas.

He said, "Let's hold up until we act and get a vote on recommitment. Then we will poll the individual members of the Budget Committee. Once polled, then we will have reported back the official waiver resolutions as being referred to the Budget Committee." They will be back at the desk. Then they will be subject to the action of the Senate. The Senate can accept our recommendation; what it is, I am not sure. We have not acted, we have not polled the members. But the Senate, by a vote at that particular time, can accept or reject on each one of those official waiver resolutions.

So we are acting in lock step, more or less, with the leadership and with the membership, trying to fulfill our responsibility on the one hand and while trying to bring to the attention of the Senate—not as Budget Committee members telling people what they should and should not do—but telling and reminding the Senate—which has a bad memory, obviously—that we are about to spend billions and billions of bucks in the

out-years without a single witness or having any idea or chance for the committee to look and give comprehensive judgment on the total fiscal policy.

I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. I promised to yield to the distinguished Senator from Connecticut for not to exceed 10 minutes without losing my right to the floor.

Mr. RIBICOFF. May I have order, Mr. President?

The VICE PRESIDENT. The Senate will be in order.

## SENATOR RIBICOFF SUPPORTS PRESIDENT CARTER ON THE MIDDLE EAST

MR. RIBICOFF. Mr. President, I trust the President of the United States on the Middle East.

I trust the Vice President on the Middle East.

I trust the Secretary of State of the United States on the Middle East.

I trust them as a U.S. Senator.

I trust them as an American.

I trust them as a Jew.

Mr. President, 12 months ago 12 U.S. Senators traveled to the Middle East to discuss the prospects of a peaceful settlement. When I returned from that trip I met with President-elect Carter and Vice President-elect Mondale in December 1976 in Blair House. At that meeting and many times since then I have reviewed with them and with Secretary Vance the U.S. effort to bring peace to the Middle East.

There is no question in my mind that these men are committed and constant in their dedication to peace in the Middle East. They are equally committed to the security, independence, and well being of Israel, and they have demonstrated this commitment many times.

These past several weeks have been tense for people concerned about the Middle East. Much of the anxiety and rhetoric is tragic because what we need now are cool heads and a perspective on what is happening.

Just a few years ago we would have looked upon the present prospects for peace as unlikely. Arab countries showed no inclination to have face-to-face talks with Israel. The Israel concept of a basic, extensive peace settlement received little support. The prospect of peace treaties between Israel and her neighbors was negligible. And both the Israeli side and the Arab side were unbending and hard. They repeated the same lines again and again without showing any willingness to examine nuances and make compromises.

All of that has changed. We forget how far we have come. During the past 12 months I have met with the top leaders of Israel, Egypt, Jordan, Saudi Arabia, and Iran—and all have shared a sense of opportunity and urgency. Mr. President, we are facing an historic opportunity: Arabs and Israelis are willing to sit down and talk about the basic peace that may lead to the signing of peace treaties. We must not lose sight of our chance to achieve this enormous breakthrough.

I would like to say something about President Carter at this point. From our meetings at Blair House last December until today I have been convinced that President Carter understands the challenge he faces in the Middle East. He has been doubted, questioned, and pressured to prove his commitment to Israel—and he has repeatedly done so. At the same time he has pursued courageously this opening toward peace. President Carter deserves our support.

I think it is no mystery why American Jews and Jews everywhere are concerned about every word an American President speaks about Israel. The Israeli perspective is grounded in the origins of the State of Israel, four wars to defend its security, and the constant threat that its survival may be at stake. Israel's survival and its path to peace both lie in the United States. No country likes to have its security so dependent upon its only friend in the world.

The United States stands behind a secure, strong, and democratic friend in backing Israel. I think we forget that that commitment has remained strong despite some severe strains. Those who think that relations between the Carter administration and the Begin government are difficult should recall both the cooperation and the disagreements the United States and Israel have lived with in the past:

First. President Truman and Israeli leaders had significant splits over the Palestinian refugee issue in 1949;

Second. There was a bad strain in 1957 when President Eisenhower and Secretary of State John Foster Dulles demanded that Israel withdraw from the Sinai Peninsula after the Suez war;

Third. In 1967 after the United States supported Israel in the 6-day war it then called on Israel to return the captured territory;

Fourth. In 1973 the United States provided enormous assistance to Israel in the Yom Kippur War, but relations afterward with the Ford administration were often difficult. One specific instance was the accusation by Secretary of State Kissinger that the Israelis were blocking an agreement with Egypt in March 1975;

Fifth. The United States has remained solidly behind Israel's defense capacity and has provided over $12.7 billion in economic and military aid to date. At the same time both the Ford and Carter administrations have opposed Israeli settlements in occupied territories as harmful to the prospects for a peace settlement.

Mr. President, I cite these historical benchmarks to underscore the courageous nature of President Carter's initiative. He knew that despite unwaivering support for Israel he would be subject to criticism. He did not have to pursue the course of action which might lead to peace but which would certainly bring pressure upon him. I want to be counted as a U.S. Senator who is thankful that President Carter took the broader view and put this historic opportunity in perspective.

Mr. President, I would like to describe one specific instance of President Carter's effort to establish harmonious relations with the Government of Prime Minister Begin. When Mr. Begin arrived in the United States President Carter and Secretary Vance asked me to carry a message to him in order to establish a relationship of confidence. This message was intended to assure the new Israeli Prime Minister that President Carter was seeking a relationship of mutual confidence, and that he sought to have positive, constructive talks. I met with Prime Minister Begin at Blair House immediately on his arrival in Washington. I conveyed the President's message in detail. The Prime Minister thanked me profusely. Thereafter, on three different occasions he repeated his deep appreciation for my intervention. A relationship of mutual confidence was established and it still exists. For the sake of world peace, this relationship of mutual confidence must be preserved.

President Carter met with the General Council of the World Jewish Congress on Wednesday, November 2. During his speech he stated that "we shall stand by Israel always" and that our relationship with Israel was "one of our deepest felt commitments." These statements are consistent with what the President has said publicly and privately during the past year.

Mr. President, the question really is whether or not we seize this opportunity for peace. I am convinced that we must do it, and I applaud our President for his leadership. Peace in the Middle East is of paramount importance to the United States and to Israel and to all the nations of the region. We have had four major wars and a climate of insecurity ever since Israel was created. Do we want the next 30 years to be the same as the past 30? I doubt that the economies of the Arab states and Israel could stand it. I doubt that the social and political fabric of these nations could stand it. And I doubt that the rest of the world could withstand the dislocations such wars would bring.

President Carter has seized the opportunity and has gone right to the heart of the problem. He is talking frankly about final, recognized and secure borders, about full normalization of relations among the countries of the region; and he is talking about the Palestinian question. Simply raising these basic issues raises the level of anxiety. But it is the only honorable course for a President of principle and courage.

Mr. President, if ever there were a time to cool the rhetoric, this is the time. Let us support an American President who is doing exactly what he should be doing: affirming our commitment to Israel while working to achieve a peaceful settlement. I am behind him as I hope all Americans regardless of religious faith or political party are behind him. The negotiations at Geneva will be long and difficult. We must demonstrate our trust and our confidence in our President to make the most of this opportunity. Mr. President, I trust the President of the United States.

Mr. President, I ask for unanimous consent to have President Carter's address to the World Jewish Congress printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF THE PRESIDENT TO THE WORLD JEWISH CONGRESS

I am deeply honored to receive this award. I accept it with a special sense of gratitude because of the organization from which it comes and the man for whom it is named.

For more than half a century Nahum Goldmann has been a scholar and political leader and a fighter for the rights of all people. His career is proof that a man who is outspoken and controversial can still be a brilliant and effective statesman. As the head of this organization and many others, he has played a more significant role in world affairs than many heads of state. He is stepping down from the presidency of the world Jewish Congress, but his presence will remain, for he is the kind of man whose moral authority transcends titles or offices.

The World Jewish Congress has always sought to promote human rights in a universal way. In this it is faithful to the ethical tradition from which it springs. For Jewish teaching helped to create the consciousness of human rights that is, I believe, now growing everywhere on earth.

In large measure, the beginnings of our modern conceptions of human rights go back to the laws and the prophets of the Judeo-Christian tradition. I have been steeped in the Bible since early childhood. And I believe that anyone who reads the ancient words of the Old Testament with sensitivity and care will find there the idea of government as something that is based on a voluntary covenant rather than force—the idea of equality before the law and the supremacy of law over the whims of rulers—the idea of the dignity of the individual human being and the individual conscience—the idea of service to the poor and oppressed—the ideas of self-government and tolerance and of nations living together in peace despite differences of belief.

I know also that the memory of Jewish persecution and suffering lends a special quality to your commitment to human rights. This organization made a major contribution to insuring that human rights became part of the Charter of the United Nations as one of its three basic purposes, along with the preservation of the peace and social and economic progress. The principal authors of the Universal Declaration of Human Rights were Eleanor Roosevelt, an American Protestant, Charles Malik, a Lebanese Catholic, and Rene Cassin, a French Jew.

Because of their work and the work of others since, no government can pretend that its mistreatment of its own citizens is solely an internal affair. These accomplishments helped start a process by which governments can be moved toward exemplifying the ideals they have publicly professed.

Our actions in the field of human rights must vary according to the appropriateness and effectiveness of one kind of action or another, but our judgments must be made according to a single standard. Oppression is reprehensible, whether its victims are blacks in South Africa or American Indians in the Western Hemisphere or Jews in the Soviet Union or dissenters in Chile or Czechoslovakia.

The public demonstration of our commitment to human rights is one of the major goals that my administration has set for U.S. foreign policy. This emphasis on human rights has raised the level of consciousness around the world and is already helping to overcome the crisis of the spirit which has lately afflicted the West.

We are also trying to build a more cooperative international system. We have consulted closely with our allies, placed relations on a new footing in Africa, Asia, and Latin America, and searched for new areas of cooperation with the Soviet Union, especially in the area where we and the Soviets now most intensely compete—in the race for nuclear weapons. We must halt that race. At the same time we seek cooperation, we recognize that competition is also a fact of international life and we will remain capable of defending the legitimate interests of our people.

We are addressing other global problems which threaten the well-being and security of people everywhere. These include nuclear proliferation, transfers of conventional arms, and the questions of energy, food, and environment which face all nations of the world.

We are also seeking solutions to regional conflicts that can do incalculable damage if not resolved. Our efforts toward a new treaty with Panama are one example; bringing about peaceful change in Southern Africa is another. But none is more important than finding peace in the Middle East.

Sixty years ago today, November 2, 1917, the British Foreign Secretary, Lord Balfour, informed Lord Rothschild of his government's support for the establishment of a national home for the Jewish people in Palestine. At that time, the idea seemed visionary and few dared to believe that it could be translated into reality. But today Israel is a vital force, an independent and democratic Jewish state, whose national existence is accepted and whose security is stronger than ever before. We are proud to be Israel's firm friend and closest partner—and we shall stand by Israel always.

Despite its great accomplishments, however, Israel has yet to realize the cherished goal of living in peace with its neighbors. Some would say that peace cannot be achieved because of the accumulated mistrust and the deep emotion dividing Israelis and Arabs. Some would say that we must realistically resign ourselves to the prospect of unending struggle and conflict in the Middle East.

With such an attitude of resignation, Israel would never have been created, and with such an attitude peace would not be achieved. What is needed is both vision and realism, so that strong leadership can transform the hostility of the past into a peaceful and constructive future. This was the vision of the Zionist movement in the first generation after the Balfour Declaration; it can be the achievement of Israel in its second generation as an independent state.

Since becoming President, I have spent much of my time in trying to promote a peace settlement between Israel and her Arab neighbors. All Americans know that peace in the Middle East is of vital concern for our own country. We cannot merely be idle bystanders. Our friendships and our interests require that we continue to devote ourselves to the cause of peace in this most dangerous region of the world.

Earlier this year, I outlined the elements of a comprehensive peace, not in order to impose our views on the parties, but rather as a way of defining some of the elements of an overall settlement which would have to be achieved through detailed negotiations.

I continue to believe that the three key issues are: first, the obligations of peace, including the full normalization of political, economic and cultural relations; second, the establishment of effective security measures, coupled to Israeli withdrawal from occupied territories and agreement on final, recognized and secure borders; and, third, a resolution of the Palestinian question. Those questions are interrelated in complex ways, and for peace to be achieved, all will have to be resolved.

Recently, our diplomatic efforts have focused on establishing a framework for negotiations so that the parties themselves will become engaged in the resolution of the many substantive issues that have divided them for so long. We can offer our good offices as mediators. We can make suggestions, but we cannot do the negotiating.

For serious peace talks to begin, a reconvening of the Geneva Conference has become essential. All the parties have accepted the idea of comprehensive negotiations at Geneva, and agreement has been reached on several important procedural arrangements.

Israel has accepted for Geneva the idea of a unified Arab delegation which will include Palestinians, and has agreed to discuss the future of the West Bank and Gaza with Jordan, Egypt and the Palestinian Arabs. This can provide the means for the Palestinian voice to be heard in the shaping of a Middle East peace, and this represents a positive and constructive step. Israel has also repeated its willingness to negotiate without preconditions, and has stressed that all issues are negotiable, an attitude that others must accept if peace talks are to succeed.

For their part, the Arab states involved have accepted Israel's status as a nation. They are increasingly willing to work toward peace treaties, and to form individual working groups to negotiate settlement of border and other disputes. No longer do they refuse to sit down at the negotiating table with Israel, nor do they dispute Israel's right to live within secure and recognized borders. That must be taken as a measure of how far we have come from the intransigent positions of the past.

The procedural agreements hammered out in 1973 at the first Geneva Conference will be a good basis for the reconvened conference.

Even a year ago the notion of Israelis and Arabs engaging in face-to-face negotiations about real peace, a peace embodied in binding treaties, seemed illusory. Yet today such negotiations are within reach—and I am proud of the progress that has been achieved to make this dream possible.

But to improve the atmosphere for serious negotiations, mutual suspicions must be further reduced. One source of Arab concern about Israeli intentions has been the establishment of civilian settlements in territories currently under occupation, which we consider to be in violation of the Fourth Geneva Convention.

On the Arab side, much still needs to be done to remove the suspicion that exist in Israel about Arab intentions. It was not so long ago, after all, that Arab demands were often expressed in extreme and sometimes violent ways. Israel's existence was constantly called into question. The continuing refusal of the Palestine Liberation Organization to accept UN Resolution 242 and Israel's right to exist, along with the resort to violence and terror by some groups, provides Israelis with tangible evidence that their worst fears may be in fact be justified.

Differences naturally persist, not only between Arabs and Israelis, but among the Arab parties themselves. We are actively engaged in an effort to narrow these differences so that Geneva can be reconvened, and we have called on the other co-chairman of the Geneva Conference, the Soviet Union, to use its influence constructively.

We will continue to encourage a constructive solution to the Palestinian question in a framework which does not threaten the interests of any of the concerned parties, yet respects the legitimate rights of the Palestinians. The nations involved must negotiate the settlement, but we ourselves do not prefer an independent Palestinian state on the West Bank.

Negotiations will no doubt be prolonged and often difficult. But we are in this to stay. I will personally be prepared to use the influence of the United States to help the negotiations succeed. We will not impose our will on any party, but we will constantly encourage and try to assist the process of conciliation.

Our relations with Israel will remain strong. Since 1973, we have provided $10 billion in military and economic aid to Israel, of which more than two-thirds was in the form of direct grants or concessional loans. The magnitude of this assistance is without parallel in history. It has greatly enhanced Israel's economic health and her military strength. Our aid will continue.

As difficult as peace through negotiations will be in the Middle East, the alternative of stalemate and conflict is infinitely worse. The costs of another war would be staggering, in both human and economic terms. Peace, by contrast, offers great hope to the peoples of the Middle East who have already contributed so much to civilization. Peace—which must include a permanent and secure Jewish State of Israel—has a compelling logic for the Middle East. It could begin to bring Arabs and Israelis together in creative ways to produce a prosperous and stable region. The prospect of coexistence and of cooperation could revive the spirits of those who have for so long thought only of violence and the struggle for survival. Peace would lift the enormous burdens of defense, and uplift the people's quality of life.

The idea of peace in the Middle East is no more of a dream today than was the idea of a national home for the Jewish people in 1917. But it will require the same dedication that made Israel a reality and has allowed it to grow and prosper.

We may be facing now the best opportunity for a permanent Middle East peace settlement in our lifetime. We must not let it slip away. Well meaning leaders in Israel, in the Arab nations, and indeed throughout the world are making an unprecedented and concerted effort to resolve deep-seated differences in the Middle East. This is not a time for intemperance or partisanship. It is a time for strong and responsible leadership and a willingness to explore carefully and thoughtfully the intentions of others.

It is a time to use the mutual strength and the unique partnership between Israel and the United States—and the influence of you and others who have a deep interest and concern—to guarantee a strong and permanently secure Israel—at peace with her neighbors, and able to contribute her tremendous resources toward the realization of human rights and a better and more peaceful life throughout the world.

The Old Testament offers a vision of what that kind of peace might mean in its deepest sense. I leave you with these lines of Micah—lines to which no summary or paraphrase could possibly do justice:

But in the last days it shall come to pass, that the mountain of the house of the Lord shall be established in the top of the mountains, and it shall be exalted above the hills; and people shall flow unto it.

And many nations shall come, and say, Come, and let us go up to the mountain of the Lord, and to the house of the God of Jacob; and he will teach us of his ways, and we will walk in his paths; for the law shall go forth of Zion, and the word of the Lord from Jerusalem.

And he shall judge among many people, and rebuke strong nations afar off; and they shall beat their swords into plowshares, and their spears into pruninghooks: nation shall not lift up a sword against nation, neither shall they learn war any more.

But they shall sit every man under his vine and under his fig tree; and none shall make them afraid: for the mouth of the Lord of hosts hath spoken it.

For all people will walk every one in the name of his god, and we will walk in the name of the Lord our God for ever and ever.

However we may falter—however difficult the path—it is our duty to walk together toward the fulfillment of that majestic prophesy.

## SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. BELLMON. Mr. President, will the Senator allow the Senator from Oklahoma to make a very brief statement before the tabling motion is made?

Mr. ROBERT C. BYRD. How long will the Senator be?

Mr. BELLMON. Two minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Oklahoma for 2 minutes without losing my right to the floor.

Mr. BELLMON. Mr. President, the motion when drafted referred to H.R. 5322. That bill has now been substituted, or has had H.R. 9346 substituted for it.

I ask unanimous consent that that change in the motion be made, the motion referred to H.R. 9346.

The VICE PRESIDENT. The motion simply reads, the pending bill, and it is in the correct form.

Mr. BELLMON. I appreciate that correction.

Mr. President, I would like to try to straighten out what I am afraid is a misconception here on the Senate floor.

This action I have taken, the motion I introduced, was taken on my own initiative. It has nothing to do with the work of the Budget Committee, In fact, I have not talked with the members. I do not know how those individual members will vote.

I introduced this motion simply because I feel a bill of this importance and a bill as complicated as this is should not be considered in such a hasty manner and that the Members of the Senate need time to consider what the impact is before we vote.

I also want to say that I have no criticism for the way the Finance Committee, or the chairman of that committee, has operated as far as the Budget Committee is concerned. He was totally cooperative and everything as far as those two committees' relationship is concerned is strictly first class.

So I hope nothing I have said or done here in any way infers any criticism of the relationship between those committees.

We have enough problems, necessarily. We certainly do not need more. We do not need to bring up more.

I wanted to make that clear for the record.

The waivers that the Finance Committee requested have been granted I think in a timely way. There is no reason this matter cannot move ahead on that account.

But my reason is that I feel this process is hasty, not orderly, and a matter of this importance deserves time for the Members to fully understand what we are doing and to know what is in the bill and what is in the report.

I simply wanted to point out that I am not acting as the ranking member of the Budget Committee, but simply as the Senator from Oklahoma.

Also, I would like to point out for the information of the Members that after months of hearings the Finance Committee split 9 to 9 on a key vote on this matter. So obviously, after months, they could not make up their minds.

I do not know why they are so insistent that the Members of the Senate settle this matter in 1 or 2 days.

The reason for my motion is to give some time to consider the matter so that we come to the best possible solution.

Mr. ROBERT C. BYRD. Mr. President, does any other Senator wish to address himself to the matter before us before I move to table?

Mr. BAKER addressed the Chair.

Mr. ROBERT C. BYRD. I yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I will take only a moment.

I intend to vote to table the motion to recommit. I share many of the same concerns others have expressed and I am frank to say that yesterday my view might have been very different. My view yesterday might have been to recommit, to give us an opportunity to look at this matter further. We are now almost 2 days into this measure, and for that reason I am inclined to think that we should go ahead and finish the consideration of this bill. Therefore, I will vote to table the motion to recommit.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. DOLE. Will the Senator from Tennessee agree that some of us who are shut out from offering our amendments should have an opportunity to offer them?

Mr. BAKER. I think the Senator from Kansas knows that I have tried my best to get the Budget Committee to grant a waiver so that the Senator can offer the amendment, of which I am a cosponsor. As a matter of fact, if this bill were recommitted, there would be no opportunity to do that.

The Senator from Kansas knows that I intend to support his amendment, and I will do so as enthusiastically as I can.

I see the Senator from Arizona here. He has a similar amendment of which I am a cosponsor, and I will support it.

The VICE PRESIDENT. The Senator from West Virginia is recognized.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. How long would the Senator like to speak?

Mr. THURMOND. Half a minute.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. I wish to ask a question. I have an amendment to this bill. I am going to vote to act on the bill now. I think we would make a mistake to delay action. We must allay the fears of the millions of people who are on social security and assure them that something is going to be done. At the same time, it seems to me that we should have the time to offer these reasonable amendments.

I have an amendment that concerns a very small class of veterans who are caught in a peculiar situation. It is

something that should be remedied as soon as possible. All I want to know is whether I will have a chance to offer that amendment.

Mr. ROBERT C. BYRD. The answer is, "Yes," I say to the distinguished Senator from South Carolina.

Mr. THURMOND. I thank the Senator very much.

Mr. DOMENICI. Mr. President, will the majority leader yield so that I may ask a question of the minority leader? It will not take more than 10 seconds.

Mr. ROBERT C. BYRD. I yield not to exceed 2 minutes to the Senator from New Mexico for that purpose.

Mr. DOMENICI. I think the minority leader knows how much I respect him. I disagree on this issue, but I wonder what has made the difference. What has caused the difference between yesterday afternoon at 5:30 and this afternoon at 3:30? What has caused the Senator from Tennessee to tell us yesterday he would have voted to recommit and today that he will not? What happened?

Mr. BAKER. Mr. President, my good friend and distinguished colleague from New Mexico, who is such an addition to this side of the aisle and who has been in league with me on many issues, knows that I have the highest affection and regard for him.

Mr. DOMENICI. That does not have anything to do with the question. [Laughter.]

Mr. BAKER. The Senator knows that what I am about to say has no bearing on his views on this subject or my own. The reason, I say to the distinguished Senator from New Mexico, is that I changed my mind. [Laughter.]

Mr. DOMENICI. I am delighted, and I thank the Senator for his frankness.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, let me say this in all good faith to those who serve on the Budget Committee and those who serve on all the other committees.

I really believe that part of the responsibility is that Congress voted to be too generous. There was a floor amendment offered here that put us in that position in 1972. Now we have to cover the unfunded part of this social security program whenever we can do it.

We can come nearer to mustering the votes now than if we wait 6 months, when one-third of the Senate and every Member of the House will be that much closer to having to run for reelection. It is a difficult thing for Congress to measure up to, but we can come nearer to doing it now than we will later.

With regard to the Budget Act, I sort of like the idea that the Budget Committee can sometimes protect the Finance Committee and help us defend against an amendment that is going to cost a great deal of money. If the motion to postpone is defeated and a motion to table carries, I believe that, in good faith, in order to get on with the business, those of us on the Finance Committee should support those who want to offer their amendments, if we must go against the Budget Committee, and let the amendments be disposed of on their merits.

In the long run, I do not think we are going to solve the problem involving the Dole amendment by just postponing it because of a technicality or denying somebody the right to have it come to a vote. It seems to me that we should cooperate, however we must, and I hope it will be on a straight up and down matter involving the resolution that the Budget Committee will report. We should cooperate, and I will do my best to cooperate, to see that every Senator has a chance to offer his amendment.

I fully realize how Senators feel when they have an amendment and believe they can muster a majority vote, and then they are told they cannot have a vote because of a technicality or because of the Budget Committee or because of something else. I will do everything in my power to see that those Senators such as Mr. DOLE who wish to offer amendments, have an opportunity to do so, and we will vote on them and do what must be done, if the Senate sees fit to go forward and fulfill its duty of trying to see that this social security program is funded. That is so important that we should try to do it any time we can; and I believe we have a better chance to do it now than 6 months from now.

Mr. BELLMON. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield for that purpose.

Mr. BELLMON. The Senator raises the point that we got the social security program in this shape by hasty action in 1972. I am concerned that if we take the same kind of action now, we will regret it later.

Mr. LONG. The action we took in 1972 was not hasty action. It was thoroughly considered. But the action was ill-advised. Frankly, nobody could have done any better at the time.

At that time, the Advisory Committee on Social Security said we could afford a 20-percent increase and an automatic cost-of-living increase provision. They were advising us that we could afford what that amendment provided when it was offered on the floor by the Senator from Idaho (Mr. CHURCH), on behalf of the Committee on Aging. We went along with it, and I supported it, as did almost every other Senator here, because the Commissioner of Social Security and all those who always had been able to give us very solid and reliable predictions and cost estimates said this was something we could afford. I hate to say it, but the best experts in America proved to be in error. That is how we got into this situation.

Mr. BELLMON. It was a floor amendment, brought up on the floor, after the bill came out of committee, and was not carefully considered.

Mr. LONG. That amendment was voted on in the Committee on Finance. Many of us voted for it in the committee, but it failed. I voted for it in the committee. It was offered on the floor, but there was a lot of respectable advice—in fact, I would say the overwhelming burden of respectable advice—headed by Mr. Robert Ball, the Commissioner of Social Security, and others, to the effect that we could afford it. They said we should adopt these so-called dynamic assumptions. Those dynamic assumptions proved to be too dynamic—more dynamic than we could afford. So we found ourselves in the situation we are in today.

Mr. BELLMON. Is the Finance Committee taking Mr. Ball's advice on this bill?

Mr. LONG. On this bill, we are taking the advice of all the experts we can. We are taking the advice of everybody in the Department, including Secretary Califano, and our own experts.

I believe that if the Senator seeks the advice of his committee staff—that is, if he starts with Miss Rivlin and works his way down; if he takes the burden of the best advice that staff can muster, and he has some very fine experts, they will tell him that we must do something like this whenever we can or this program will not be solvent.

Mr. BELLMON. All we are asking is that we have time to consult those experts and find if this bill is the best we can do.

Mr. LONG. The Senator's experts have been advising us that this bill should be passed; so have our experts been advising us that this bill should be passed; and so has every expert in the Department been advising us that this bill should be passed.

All we are talking about is that Senators and Members of the House should overcome their reluctance to vote for a big tax and overcome the political burdens implicit in all that, to muster whatever it takes to vote the tax to make this program solvent.

Mr. BELLMON. Mr. President, will the Senator yield for an additional question?

Mr. ROBERT C. BYRD. I yield for that purpose.

Mr. BELLMON. Just to be sure my facts are right, I am told that the trust funds at the end of this year, December 31, 1977, the combined trust funds, will have a balance of $46.1 billion and that a year later, on December 31, 1978, those trust funds still will have a total of $43 billion remaining.

I cannot understand the reason for the rush. If the fund is going broke, certainly we should do something as quickly as possible.

We have months or even years to consider this matter before we have to move in such a hasty fashion.

Mr. LONG. Mr. President, it was a Senator from Oklahoma, the late Robert S. Kerr, who insisted that disability insurance should be a separate program and a separate fund. Shortly after the end of next year that program will go broke. A few years later, in 1983, the old age and survivors insurance fund runs out of money. The Senator says why can we not wait until then? For one thing, if we wait we are going to have a $1 billion increase in burden because of that Supreme Court decision on equal rights which is going to load a lot of people on the rolls who do not belong there—which would not happen if this bill becomes law now.

It is a $1 billion windfall that no one ever intended because of the Supreme Court decision. I am not challenging their decision now. Now that we know what it is this bill adjusts for it. That is No. 1.

No. 2, it is purely a matter of what time does the Senator think we can muster most political courage in the House of Representatives and the Senate? In the Senate one-third of our Members run for reelection next year. The nearer we get to that election, the tougher it is going to be for those Senators to vote for this bill even though they know that is a matter of fiscal responsibility.

In the House of Representatives every man over there has to seek reelection next year. There are 435 of them. And the nearer we push those men to election the more difficult it is going to be for them to vote for this bill.

My point is that we should have voted the taxes 3 years ago, we should have voted them 2 years ago, and we should have voted them last year. But for one reason or another, such as the fact that President Ford had a tough race coming up—and it proved to be a very tough race—and because of things of that sort we could not do it then.

When can we ever do it? We have a chance right now. No one right now has a tough race on his hands. Next year they will all have opponents beginning to enter the field and announcing their candidacy against many and sundry people for the jobs next year.

We could come nearer passing it right now than at any other time.

Let me ask, as a matter of political reality, can anyone here muster more courage to vote for a great big tax 6 months from now when we are 6 months closer to an election than right now?

That is as strong as reason as I can figure out why we should do it any time we can.

We could come nearer passing it right now as a matter of political reality than we can 6 months or a year from now.

Mr. NELSON. Mr. President, will the Senator yield for an observation?

Mr. LONG. I yield to the Senator for an observation.

Mr. NELSON. We have been trying to find out how much it would cost if we delayed, and the Senator was suggesting $1 billion, that it would cost $1 billion because of the Supreme Court decision, with the increase in the replacement rate that is going on, as well as the retroactive benefits. The actuaries have been working on it for some time now and estimate that if we wait until March—the resolution here is February—if we wait until March and it would probably be February before we get it through, the additional cost to the fund would be $1,200,000,000, and that alone is far too much just to postpone consideration of this bill and go back and take another look at it and pass what we started out with in the first place.

I might say this, if the Senator will allow me a moment, that there is a nice piece of irony here in the fact that many Senators have been standing up and saying, "Oh, we have to study it further; we have not had the hearing record long enough; we have not had the committee report long enough."

I have been looking down the rollcall, and I will not embarrass anyone, but an hour and a half ago on a veterans' bill that is going to cost hundreds and hundreds of millions if not billions of dollars there was no hearing at all, as there was on social security. There was no committee report at all. There was 24 hours' notice, and we passed it 68 to 20 with the same Senators who are now saying, "Send this back for more studies," being part of the 68. I must say I am proud to say I was not part of the 68. I was part of the 20.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. LONG. Mr. President, if the Senator will let me say it, this is a big tax. If you want to fund the obligation and take these dear old people, disabled people, and widows and orphans who have a right to expect that Congress is going to fulfill the promise it made to them in the Social Security Act, if you want to take them out of that place of insecurity they are in with an unfunded program and you want to put the money up as was always in the past, so that what has been promised them will be paid for out of taxes that the American people will make good, not by inflation, but by taxes to pay for the benefits, you are going to have to vote for a big tax, and there it is right there in this bill. The more you study it the tougher it is going to get and the longer you study it the tougher it is going to get. But at some point you are going to have to march up the hill and find 51 votes to pass that tax. Otherwise, this program will have to be funded by hot checks out of the Treasury where the purchasing power of the money goes down as fast as they print the money. Sooner or later we are going to have to find a way to fund what we have promised the American people. It is not going to be any easier just because you postpone that tough decision.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MATSUNAGA. Mr. President, will the distinguished Senator yield for 30 seconds?

Mr. ROBERT C. BYRD. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I urge my colleagues to vote "yea" on the tabling motion.

As a member of the Finance Committee, who has had the great privilege of serving under the chairman who today is celebrating his 39th birthday for the 29th time by working for the American people, I say happy birthday, Russ.

Mr. ROBERT C. BYRD. Mr. President, I shall shortly move to table the motion to recommit. I do that for at least three reasons.

One, the problems that the system faces today have already been analyzed by the board of trustees of the social security trust fund in its 1977 report to Congress. The board has informed us that the disability insurance trust fund will be exhausted in 1979 and the old age and survivors trust fund will be depleted in 1983.

I believe that our proper course now is to act and to act now to protect the financial soundness of the social security system. The alternate course, which is one of procrastination and delay, can only contribute to a loss of faith by the American people in Congress.

The second reason why I make this motion and urge Senators to support the motion to table is the fact that the President when he considers whatever tax initiatives he wishes to present to Congress next year needs before him the impact of the social security financing measure and the impact of the energy tax bill, which has been passed by the Senate and which is in conference with the House of Representatives.

Before the President can make a reasonable judgment as to what proposals to send to Congress with reference to taxes next year, he needs both of these matters before him. He needs to know what the impact upon the economy will be. Until he has both of these measures before him, he will not be in a good position to formulate whatever decisions he feels he has to make in regard to the proposals that he will submit.

In that regard, Mr. President, I ask unanimous consent to print in the RECORD a letter which I have received from the President of the United States, dated November 3.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
*Washington, D.C., November 3, 1977.*

Hon. ROBERT C. BYRD,
*Majority Leader, U.S. Senate,*
*Washington, D.C.*

To SENATOR ROBERT BYRD: Enactment of a strong social security financing bill is essential this year.

To avoid unacceptably high costs to the system and unacceptably high taxes on today's workers, the legislation should retain a reasonable earned income limitation for social security beneficiaries and should include financing provisions such as the so-called Nelson compromise. I hope that the Senate will take into account my concerns in this regard.

Sincerely,

JIMMY CARTER.

Mr. ROBERT C. BYRD. Mr. President, I shall read merely the first sentence:

Enactment of a strong social security financing bill is essential this year.

Mr. President, the third reason why I shall move to table this motion lies in the fact that now is the time to act. Next February we will have the same problems that we have now except they will be compounded.

There will be those who will say, "We still have not had time enough to study." We will have more legislation than we can adequately deal with next February without this problem. We will have the Panama Canal Treaty; we will have whatever tax initiatives the President decides to send up to Congress; we will have the regular appropriation bills we have to cope with every year; we will

have to meet the same Budget Act deadlines with respect to the reporting of bills and the reporting of legislation that provide for new obligational authority; we will have all of those deadlines to meet. So we are not lessening our problem by delaying this one until next February.

I say, Mr. President, that Senator LONG has put his finger right on the crux of the matter. Next February there will be those who will be facing a filing deadline back in their States; those who have to run for reelection will be facing a filing deadline. They will want to wait until after the filing deadline before they showdown on these taxes.

After we pass the filing deadline they will want to wait until after the State primaries before they showdown on these taxes.

Then, of course, after the State primaries they will want to wait until after the fall elections because the argument will be then, "Well, the trust fund"—the argument will run like this—"Well, the trust fund, the disability trust fund, won't be exhausted until 1979, so let us wait until next year."

So, Mr. President, let us have away with this urging we have for procrastination and delay. I am one of those who often vote on legislation without having had time to study the committee report, without having had time to study the bill. Every Senator in this body is put into that position from time to time, so there is nothing unique, there is nothing new, about this particular situation.

There are those who say, "Why rush the bill?" Well, we have all of tomorrow, we have all day Saturday, and if we stay here until the close of business on Saturday on this bill, that will make a total of 4 days we will have spent on it. If Senators want to consider the bill further, the Senate has been promised by the distinguished minority leader and me there will be no floor action next week in the Senate. But no such promise was made with respect to the week of the 13th through the 19th.

I urge Senators not to commit this bill, because if we do it means we have wasted 2 whole days here in delay. Senators could have called up amendments, and we would be putting the bill back into the committee until next February. For what? For additional delay?

I would say, Mr. President, if we want some additional time to debate the bill, we can have it. We do not have to commit the bill. It is the unfinished business, and if action is not completed on it by the close of business Saturday, it will be the business before the Senate when the Senate convenes on November 14, a week from this coming Monday.

If they want additional time, and the Senate has not completed action on the bill during that week, the distinguished minority leader and I have assured Senators that the week of Thanksgiving we will have no floor action, but on November 28, Monday, this bill will still be the unfinished business. If Senators wish to continue to debate until that time they may do so. But whatever they do, the question of committal should not be decided on the point that we are rushing it through, that we are ramming it down the throats of the Senate.

There is plenty of time to debate this bill without putting it over until next February if Senators genuinely want to debate it. We do not have to close up shop Saturday night. We can continue to act on this measure. It is the unfinished business, and it will be the unfinished business until it is disposed of.

If the Senate wants to dispose of it by committing it that is one way to dispose of it. If the Senate wants to dispose of it by tabling, that is one way to dispose of it. But it will not be disposed of by virtue of the majority leader Saturday evening saying, "Well, we are just going to put it off until next year." You can just forget that.

I would hate to see tomorrow morning's headlines say, "Senate shelves social security financing bill." How many of you want to be responsible for that headline? How many of you want to respond to the letters that will come to you then?

We have a responsibility to face up to this question. The committee has faced up to the question. If we need more time we can have it. But in any event do not commit this bill; committing it means killing it. that is exactly what it means.

If we wait until next February we will be waiting until February 1979.

So, Mr. President, I yield 2 minutes, before I move to table the motion, to the Senator from Wyoming.

Mr. HANSEN. I thank the distinguished majority leader.

Mr. President, I have been tied up in a couple of conferences today, and I have not been able to be on the floor to participate like I would have liked to have done on this bill.

Let me say I voted for the Curtis amendment. Let me say I am disappointed that the Senate of the United States seems to continue in the belief, the mistaken conviction, that we can fool all of the people all of the time.

There is no question at all but what inflation is one of the very major and increasingly difficult problems facing this country. There is an uneasiness in the business community. The stock market is dropping steadily. I do not know what it has done today, but generally the attitude of the typical businessman is that this is not a very good economic climate.

We are worried about jobs. It has been pointed out earlier today, from what I have been told, that one of the things that is wrong with the approach we are now taking is that it is going to make it more difficult to employ men, to generate the kind of income that can result in more jobs.

I was not on the Committee on Finance too long before 1972, but I recall that when we were talking about the Church amendment there seemed to me to be a consensus, and I think the RECORD will reveal that a majority of us voted, against the so-called Church amendment. But there were others who did not, and it was said that one of the things that was bound to happen—and I know the distinguished Vice President at that time, as I recall, was on the Committee on Finance, and I suspect he too may recall—it was observed that the reason why the Committee on Finance ought to vote to give these extra benefits that now come back to plague us, despite the expert advice we had, was that if we did not do it in the Committee on Finance it would be done on the floor. Indeed, we did not do it in the Committee on Finance and, indeed, it was done on the floor.

I do not think the solution we are offering to the American people today is all that good. I would be inclined, if I thought that a better equilibrium could result, if a better sense of balance could occur, to postpone the decision. But I think there is a lot to what my distinguished chairman has said, that if we put it off until next spring we probably will not come up with as good a solution as we have right now.

I am not happy with it. I did not vote for it, but I am going to vote to table the motion of the distinguished Senator from Oklahoma because I am fearful, being the kind of political animals we all are, that we probably will be less inclined in February to do the honest and decent and long-range good thing that I regret we have not done until now.

So I say with a sense of sadness, with a sense of frustration, that I will support the motion to table the motion of the distinguished Senator from Oklahoma not because I do not think he is right, but precisely because I fear that come next spring we will be even more conscious of the illusion that we continue to perpetuate on Americans, that if we do not tax them, but if we continue to pay them more and more benefits, we are good guys.

I thank my leader.

### THE SOCIAL SECURITY TAX BILL

Mr. CHURCH. Mr. President, I oppose this legislation. I will vote to recommit it because it provides for a huge tax increase—one of the largest in history—and a highly regressive tax, at that. The social security tax, like the sales tax, falls hardest on those less able to pay.

I recognize that the Social Security System must remain solvent. But I had hoped that it would be possible to fashion a bill that would not only meet the fiscal needs of social security, but also accomplish other objectives as well.

For example, this country needs a much-improved comprehensive medical program for the elderly, the handicapped, and the poor. We need a program that eliminates the gaps that now exist between coverage under medicare and medicaid.

I feel that medicare should be removed from the social security trust fund and financed, instead, through general revenues. Medicaid is already financed this way, and the two should be blended into a uniform system. General revenues come mainly from the income tax, so that the financing would be made progressive in nature, rather than regressive.

If we were to remove medicare from social security as part of a general overhaul, it would lift a big burden from the social security trust fund. That, in turn, would make it possible for us to lower substantially the rate increase contemplated by this bill.

Accordingly, I will cast my vote to commit this bill, and if the motion carries, I will introduce legislation designed to accomplish these objectives soon after Congress reconvenes next year.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the motion to commit on the table, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from West Virginia to lay on the table the motion of the Senator from Oklahoma to commit the bill. The yeas and nays were ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SPARKMAN (when his name was called). Mr. President, on this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. STEVENS. I announce that the Senator from Kansas (Mr. PEARSON) and the Senator from New Mexico (Mr. SCHMITT) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 54, nays 36, as follows:

[Rollcall Vote No. 614 Leg.]

YEAS—54

| | | |
|---|---|---|
| Anderson | Haskell | Nelson |
| Baker | Hathaway | Nunn |
| Bayh | Hollings | Pell |
| Bentsen | Huddleston | Percy |
| Burdick | Humphrey | Proxmire |
| Byrd, Harry F., Jr. | Jackson | Randolph |
| Byrd, Robert C. | Javits | Ribicoff |
| Cannon | Johnston | Riegle |
| Cranston | Kennedy | Sarbanes |
| Curtis | Laxalt | Stafford |
| Dole | Long | Stennis |
| Durkin | Magnuson | Stone |
| Eastland | Mathias | Talmadge |
| Ford | Matsunaga | Thurmond |
| Glenn | McGovern | Williams |
| Gravel | McIntyre | Young |
| Hansen | Melcher | Zorinsky |
| Hart | Metzenbaum | |
| | Moynihan | |

NAYS—36

| | | |
|---|---|---|
| Abourezk | Domenici | McClure |
| Allen | Eagleton | Metcalf |
| Bartlett | Garn | Morgan |
| Bellmon | Goldwater | Packwood |
| Biden | Griffin | Roth |
| Brooke | Hatch | Sasser |
| Case | Hatfield | Schweiker |
| Chafee | Hayakawa | Stevens |
| Chiles | Heinz | Stevenson |
| Church | Helms | Tower |
| Danforth | Leahy | Wallop |
| DeConcini | Lugar | Weicker |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, for.

NOT VOTING—9

| | | |
|---|---|---|
| Bumpers | Inouye | Pearson |
| Clark | McClellan | Schmitt |
| Culver | Muskie | Scott |

So the motion to lay on the table the motion to recommit was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## LABOR-HEW APPROPRIATIONS FOR 1978—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, with reference to the Labor-HEW conference report, which it is hoped can yet be resolved between the two houses, after consultations with various parties who have been keenly interested in the matter I make the following unanimous-consent request: I ask unanimous consent that it be in order——

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. Will Senators kindly take their seats and give the Senator from West Virginia the courtesy of being heard?

Mr. ROBERT C. BYRD. I thank the Chair. I ask unanimous consent that it be in order to move, without debate, to reconsider the vote by which the Senate concurred in the House amendment to the Senate amendment No. 82 to H.R. 7555 with an amendment, and that the word "or" on line 6 of the Senate amendment may be changed to the word "and" upon reconsideration.

I would modify that by striking from my request "without debate." And that there be a time limitation of 10 minutes——

Mr. PACKWOOD. Is the request to change the word or for reconsideration?

Mr. ROBERT C. BYRD. The request is to allow the motion.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I will reiterate and reinforce what has just been said, that negotiations have been underway for a good part of the day today. I see the distinguished Senator from Massachusetts, the ranking Republican on the committee, on the floor. It is my impression that he and others have carefully considered the procedure now proposed and it is generally agreed.

I know the Senator from North Carolina is not here——

Mr. HEINZ. Reserving the right to object, and I shall not object, Mr. President, I believe this is a worthwhile motion. It is one I intend to support and I urge that the unanimous-consent request be agreed to.

Mr. BROOKE. If the Senator will yield, Mr. President, I would like to assure the Senator that this is a matter which Senator MAGNUSON, the distinguished chairman of that subcommittee, and I have worked out together with Senator HELMS and many other Senators—Senator BURDICK, Senator CASE, and others—who are interested in this matter. This is a procedural matter which will give us an opportunity to vote subsequently on a language change and send it back to the House of Representatives so that they may consider it today, hopefully, and we can come to a compromise and end the stalemate which has held us up for such a long period of time.

Mr. ROBERT C. BYRD. Would the Senator suggest any time limitation?

Mr. BROOKE. No. I would suggest there is no further debate necessary.

Mr. ROBERT C. BYRD. That there be no debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Now, Mr. President, I move to reconsider the vote by which the Senate concurred in the House amendment to the Senate amendment No. 82 to H.R. 7555 with an amendment.

Mr. JAVITS. Could we have it stated, Mr. President, so that we know what it is?

Mr. BROOKE. But this is still procedure.

Mr. JAVITS. No objection.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

UP AMENDMENT 1041

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair is advised that the question will be on reconsidering the motion to concur in the House amendment to the Senate amendment numbered 82, with an amendment and with one word of that amendment changed from the prior amendment.

Will the Senator kindly send that change to the desk?

Mr. BROOKE. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes unprinted amendment No. 1041.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote by which the Senate concurred in the House amendment to the Senate amendment No. 82 to H.R. 7555 with an amendment and that the word "or" on line 6 of the Senate amendment may be changed to the word "and" upon reconsideration.

Mr. BROOKE. Mr. President, my colleagues will remember that the action taken by the Senate this morning on this legislation contained the words "severe or long-lasting damage to the mother." The intent of this amendment is to change the word "or" and substitute therefor the word "and," so the language would be "severe and long-lasting damage to the mother."

That is the only change that this amendment would make.

Mr. JAVITS. Will the Senator yield?

Mr. BROOKE. Yes.

Mr. JAVITS. Mr. President, so the amendment will now read, "or except in those instances where severe or long-lasting damage to the mother" would result?

Mr. BROOKE. Except in those instances "where severe and long-lasting damage to the mother."

Mr. JAVITS. The words "physical health" are omitted?

Mr. BROOKE. No, we are not changing that at all; we are only changing the word "or" to "and." There is no other change. It is a minor change.

Mr. President, I ask for the yeas and nays on this motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, before we vote, I urge adoption of this amendment. But there will be yeas and nays.

The PRESIDING OFFICER. The question is on the motion to concur in the House amendment to the Senate amendment No. 82, with an amendment in which the word "or" on line 6 is changed to "and". The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER), would vote "yea."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from California (Mr. HAYAKAWA) would vote "yea."

The result was announced—yeas 62, nays 27, as follows:

[Rollcall Vote No. 615 Leg.]

YEAS—62

| | | |
|---|---|---|
| Abourezk | Goldwater | Metzenbaum |
| Anderson | Gravel | Morgan |
| Baker | Hansen | Moynihan |
| Bayh | Hart | Nelson |
| Bellmon | Haskell | Nunn |
| Bentsen | Hathaway | Pell |
| Brooke | Heinz | Percy |
| Burdick | Hollings | Proxmire |
| Byrd, Harry F., Jr. | Humphrey | Ribicoff |
| Byrd, Robert C. | Jackson | Riegle |
| Cannon | Javits | Sarbanes |
| Case | Kennedy | Sasser |
| Chafee | Laxalt | Sparkman |
| Chiles | Leahy | Stafford |
| Church | Long | Stevens |
| Clark | Magnuson | Stevenson |
| Cranston | Mathias | Talmadge |
| DeConcini | Matsunaga | Tower |
| Eastland | McGovern | Wallop |
| Glenn | McIntyre | Williams |
| | Metcalf | Young |

NAYS—27

| | | |
|---|---|---|
| Allen | Ford | Melcher |
| Bartlett | Garn | Packwood |
| Biden | Griffin | Randolph |
| Curtis | Hatch | Roth |
| Danforth | Hatfield | Schweiker |
| Dole | Helms | Stennis |
| Domenici | Huddleston | Stone |
| Durkin | Johnston | Thurmond |
| Eagleton | Lugar | Zorinsky |

NOT VOTING—11

| | | |
|---|---|---|
| Bumpers | McClellan | Schmitt |
| Culver | McClure | Scott |
| Hayakawa | Muskie | Weicker |
| Inouye | Pearson | |

So the motion to concur was agreed to.

The PRESIDING OFFICER. (Mr. PROXMIRE). The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

## A RESPONSE TO DR. BURNS' CRITICISM OF CARTER ADMINISTRATION ECONOMIC POLICY

Mr. HUMPHREY. Mr. President, Arthur Burns, the Chairman of the Federal Reserve Board, recently took out his axe, whetted it to a fine edge, and went after the President and the Congress for following what he regards as short-sighted and counterproductive economic policies.

I have a great respect and affection for Dr. Burns. He is a sincere and dedicated man. He wants what is right for our country as much as I do, and as much as the President does. He is a man of deep conviction. Unfortunately, his analysis of what ails our economy is seriously defective, and his conclusions about what we should do to cure these ailments are misleading and wrong. I think it is time someone stood up and said so.

One of Dr. Burns' complaints is that the Carter administration is trying to solve too many problems at once. The business and financial community, he believes, has become confused and irritated because our President wants to move forward on the energy front, to keep our social security system from going bankrupt, to clean up the welfare mess, and to make our tax system fairer and more equitable.

The problems the President and the Congress are coming to grips with are not problems that the current administration invented. They are problems inherited from the past. They are not Republican or Democratic problems; they are bipartisan issues of critical importance to our economy and our people. And, until they are resolved, the uncertainty they create will plague our economy and prevent a return to the steady and energetic economic growth that our businesses, workers, and consumers desire and deserve.

In the first year of President Carter's term we are importing almost 9 million barrels of oil a day and it is costing us $45 billion a year. The price of oil is four times what it had been in the fall of 1973, and we are relying on imports to meet 48 percent of our domestic requirements. We do not have the luxury of solving this problem at our leisure.

When this administration took up the reins of Government, our social security system was in deep trouble. Every day that we delay in adopting measures to bolster the financing of our social security system puts us one day closer to the time when the social security trust funds will be exhausted and unable to maintain the benefit payments on which millions of older Americans depend for their livelihood. It would be unconscionable for the President and Congress to sit by passively while this social time bomb ticked away.

When the President took office last January, he inherited a welfare system that was beyond the financial capacity of many cities and States to operate, and one in which there was a vast amount of waste and cheating. He inherited an income tax system so complicated that virtually no one understands it, and so unfair that billions of dollars of income are escaping taxation, because of the loopholes that have so vastly increased in number over the past decade.

Moreover, when the new administration came to office, the economy was in a shambles. In December of 1976, the Nation's unemployment rate was stuck at a socially destructive and economically debilitating 7.8 percent, consumer prices were soaring at a 10.1-percent annual rate, and a full 20-percent of our Nation's plant and equipment was standing idle.

Of course, it is difficult and time consuming to find solutions to problems of such enormity and complexity. There is bound to be uncertainty while Congress debates the issues, considers the alternatives, and finds a consensus that represents the will of the people and the best interests of our Nation.

But what is the alternative? Does Dr. Burns really believe it is better to leave such economic ailments unattended? Should we expose our citizens to the threat that a year or two from now they may not be able to heat their homes or obtain enough gasoline to drive to work? Should America's workers and retired citizens have to live with the grim realization that a crisis in the social security system looms ahead, and without a clue as to what will be done? Should we tell the worker whose paycheck is being eaten up by rising taxes that we cannot afford to establish a rational welfare system or to move ahead to make our tax system fairer—because doing so is too complicated and too disruptive?

This great Nation of ours was not built by the timid or the faint-hearted. Our Nation has prospered because we have been willing to tackle our problems pragmatically, energetically, and with a sense of optimism. The way to gain consumer and business confidence is not to shut our eyes to festering ills, to avoid controversial issues, to live from one day to the next hoping that serious national problems will somehow go away. That course of action might buy a few months of calm—but the inevitable storm that would follow will engulf us all.

The President and Congress have not sought the easy way out. The easy way would have been to temporize—to postpone for the next administration and the next Congress the search for lasting solutions.

I applaud President Carter for his boldness and for his foresightedness. The course of action he has chosen has generated a great debate on issues of major importance to our Nation's future. The uncertainty of the policymaking process in dealing with issues of sweeping importance is uncomfortable, but it is a small price to pay for the long-run health of the economy. Congress is working steadily toward agreement in this session on energy and social security legislation, and it can then turn to sorely needed reform of our tax and welfare systems.

Solutions to such fundamental problems do not come quickly. America is a big, complex, modern nation and so are our problems. The multiplicity of economic interests, the great diversity among the regions of our Nation, and the great variety of peoples and viewpoints which are the source of America's great strength, are also the essential explanation of why solving important and complex problems in a democratic way is so difficult and time consuming. But, I ask you, who would want it any other way?

The public discussion and debate, the arguments and the compromises between the President and the Congress, may take more time than we would like, but they are indispensable in finding solutions that can be sustained for long periods of time under our political system.

Dr. Burns also believes that our economy is suffering from the effects of inflation, and what it has done to business profits and planning for the future. I agree with him. I know from personal experience that inflation can play havoc with the plans and dreams of a small businessman. I also know what inflation can do to the real value of the savings that workers put away for their retirement and what parents accumulate for the education of their children.

Perhaps we need to refresh our memories, however, on what has happened to the pace of inflation over the past 10 years.

When Richard Nixon became President in January 1968, the rate of inflation was around 4 percent. Two years later, he appointed one of the great inflation-fighters of all time—Dr. Arthur Burns—to manage monetary policy at the Federal Reserve. Mr. Nixon must have hoped that, with Dr. Burns at the money-creating machine in our country, the problem of inflation would soon be brought under control.

During Dr. Burns' tenure at the Federal Reserve, our inflation problem did not get better; on the contrary, it has become much worse. By 1974, prices were rising at an astronomical rate. Inflation had gotten completely out of control.

The aggravation of inflation in 1973 and 1974 that stemmed from rising prices of food and energy items was not, of course, the fault of the Federal Reserve.

Nor was it the kind of inflation that our monetary and fiscal policies could readily cure. Nevertheless, the Nixon-Ford administration and the Federal Reserve tried to use conventional tools to solve unconventional problems of the present and the future. They slammed on the monetary and fiscal brakes, and the consequence was the deepest recession of the entire postwar period.

The results of that recession were staggering. The unemployment rate rose to about 9 percent, the highest level since 1941. Nearly 9 million American workers were "officially" counted as unemployed and millions of others were actually without work or underemployed. At the same time, inflation raced ahead at a double-digit rate for the first time in modern American economic history. Long- and short-term interest rates for businesses, consumers, and for families borrowing to buy a home climbed to unprecedented levels. Not surprisingly, the bottom dropped out of the housing market and the number of new homes built in 1975 dropped below the 1 million mark for the first time in many years. By early 1975 with more of our industrial capacity idle than at any time in the postwar period, business profits had dropped to a dangerously low level.

The greatest tragedy of the recession was the colossal wasting of our Nation's human, natural, and capital resources that occurred. This recession cost the American people more than $600 billion in goods not produced, services never provided, and income never earned. This recession cost America's working families an average of $12,000 each.

Following the cataclysmic economic events of the early 1970's, it is hardly any wonder that America's businessmen and businessmen throughout the world are still nervous and uncertain about the future, and that business investment has not developed the dynamism it must have if we are to employ the unemployed and regain prosperity in our country and elsewhere in the world.

Confidence in the long-run health of the economy we know is a critical ingredient in businessmen's decisions to invest when they look forward to investing. That confidence cannot be purchased with economic policies that inhibit growth, reduce consumer spending, produce high unemployment, and force a large part of our industrial capacity to stand idle.

Chairman Burns has observed that the Federal Reserve must strike a "delicate balance between too much and too little money." A similar balance must also be struck between too much and too little stimulus coming from the Federal budget.

Deficits in today's underemployed economy are not inflationary. Large deficits are the result of recession and unemployment and they decline as the economy returns, as it must, to full employment. As unemployment increases and economic growth declines, deficits increase. When economic progress returns, the deficits are reduced. In 1975, for example, unemployment rose by 2.9 percentage points, the Gross National Product (GNP) actually dropped by 1.3 percent and, as a result, the Federal deficit rose by $60 billion. In 1976, on the other hand, when unemployment dropped by 0.8 percent and GNP increased by 6 percent, the Federal budget deficit declined by $16 billion.

The President and my colleagues in this Congress are committed to policies that will look forward to a balanced budget when full employment is possible. Together we have taken a number of important initiatives to move the economy toward this objective. Of course it takes time for expanded employment and training programs, new youth employment efforts, local public works projects, and the like, to make a major positive impact on the economy. These initiatives can generate expanded purchasing power and a higher level of economic activity. But, if the Federal Reserve tightens up on credit and raises interest rates whenever purchasing power expands, it can and will frustrate any attempt by the President and Congress to stimulate economic growth and reduce unemployment. We cannot have tax and budget policies moving in one direction while monetary policy moves the opposite way and expect to achieve our national economic policy goals.

I believe the President and the Congress share Dr. Burns' concern for providing adequate incentives for business investment. My colleague, Senator PERCY, and I have cosponsored a bill in this session of Congress to establish a national investment policy. The administration has given its support to that bill, and I hope the Congress will enact it. I have noted with great satisfaction that the President places the need to improve capital formation high on his list of priorities to be achieved in his tax reform proposals.

If the Federal Reserve is deeply concerned about the slow pace of business investment, I ask this question: Why did it recently begin to pursue monetary policies that have pushed up interest rates very rapidly at precisely the time when economic growth was beginning to falter? That decision by the Federal Reserve Board sent the stock market, as we know, into a nosedive and raised the cost of business financing. How much of our current economic malaise stems from this source I do not know, and I do not suppose anyone really does. But it can hardly have been a negligible factor.

I am not unsympathetic with the problems that Dr. Burns and the Federal Reserve have been facing. He knows that. Those problems are difficult.

The money supply has been growing erratically in recent months. This we know. In July, the basic measure of the money supply, $M_1$, rose at a 19.9-percent rate. In August it dropped to 5.6 percent, followed by 8 percent in September and 14.3 percent in October. It is easy to understand the confidence-eroding impact of such gyrations on corporate financial officers attempting to make rational investment decisions.

But do these fluctuations portend an inflationary boom that must be fought with steadily rising interest rates? If so, what is the evidence for this?

The principal economic indicators, as I read them, have been moving in the opposite direction. The unemployment rate remains stuck at about 7 percent. Industrial capacity is still low at about 82 percent where it has been since last May. The GNP grew at only 3.8 percent

in the third quarter of this year, even less than the historically stable 4 percent growth rate. Productivity increased 6.5 percent in the third quarter, the largest increase in 2 years, holding out the promise of lower rates of inflation in coming months. Finally, in the last 3 months consumer prices increased at a 4.9-percent annual rate, far less than the 6.6-percent rate since last September.

Dr. Burns' predecessor, William McChesney Martin, educated me when I first came here to this body to the view that the Federal Reserve was supposed to "lean against the economic winds." I have always understood that phrase to mean that the Federal Reserve should worry about too fast a pace of expansion in money and credit when the economy was booming and inflationary pressures were on the horizon—not when economic growth was slowing and the rate of inflation receding, as has been the case this past summer.

If the Federal Reserve has a different view of what its responsibilities are, I hope Dr. Burns will report to the committee chaired by the distinguished presiding officer at this particular moment and tell us forthrightly what that view is.

Chairman Burns urges that we take a long range view of our economic problems. I agree with him. But I suggest that the long view requires us to stand up and tackle difficult problems head-on, now, problems that beset us this moment, even at the cost of some immediate uncertainty and conflict. And while I understand the many and complex considerations that must be balanced in setting monetary dials, I suggest that the long view requires the Federal Reserve to base its monetary policies on the real needs of the economy—not to rigidly pursue monetary growth targets that may be inadequate to the realities of today's economy with a religious fervor.

Mr. President, the New York Times recently published an insightful editorial dealing with the question of business confidence and the problems which confront our economy. After commenting on the numerous steps the President has taken to bolster business confidence, and then discussing future measures he is expected to take to encourage higher levels of investment, the editorial concluded with the following statement to which I fully subscribe:

> None of this will matter much, however, if the Federal Reserve Board continues to tighten monetary policy and push up short-term interest rates. An economy can't go in two directions at once, governed simultaneously by a tax policy that is stimulative and a monetary policy that is restrictive.

Mr. President, our economy requires, and our businesses and families deserve, a consistent and coordinated national economic policy, and by that I mean monetary policy. Monetary, tax, and budget policies must be designed to reinforce each other, not to counteract each other, if this Nation is to pursue its goal of economic growth, full employment, and the restoration of a stable American prosperity.

Mr. President, I ask unanimous consent that the New York Times editorial of October 30, "A Boost to Business—and Then What?" be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A BOOST TO BUSINESS—AND THEN WHAT?

Beset by a lack of business confidence, President Carter last week postponed tax reform. Beyond that, he suggested that when it comes, it will include a hefty tax cut, to spur business outlays for investment. The President did what he had to do. Energy and Social Security legislation are still tied up in Congress. Until they are resolved, detailed tax legislation already in Congress has not only upset businessmen, it has upset Congress. Eliminating one ball—tax reform—from the legislative juggling act was not only shrewd politics but prudent economics.

The economic theory on which Mr. Carter bases his pledge is, at best, uncertain. He now apparently believes what some advisers have been telling him for months: that unless business investment plans pick up, the economy will probably fall into another recession next year. That would shatter the Administration's hopes of pushing unemployment below 5 percent and balancing the Federal budget by 1981. Economists do not really know what triggers business investment decisions. The problems that have held back investment could lie beyond the President's reach: overseas, in the oil cartel that has shaken the world since 1973 or in the increased competition of Western Europe and Japan in export markets that American business once dominated.

Mr. Carter has tried since January to boost business confidence. He ruled out wage-price controls early in his Administration—but business did not believe him. He pledged to balance the budget—and again his credibility was questioned. He canceled plans for a $50 tax rebate, as business asked. Still business grumbled.

Now Mr. Carter has decided that a major explanation for flagging business investment lies in weak profits. If investments can be made more profitable by cutting business taxes, the Administration believes, business will be more inclined to invest. Some economists, particularly Republicans, have been saying this for years. Last week, Arthur Burns, the conservative chairman of the Federal Reserve Board, called for such a tax cut. Economists across a wide spectrum believe that business is still so traumatized by the high inflation and deep recession of 1973–74 that executives must see a larger potential return on investment than ever before. Otherwise, they simply won't make major investments. The President and his Democratic advisers seem—wisely—to agree.

None of this will matter much, however, if the Federal Reserve Board continues to tighten monetary policy and push up short-term interest rates. An economy can't go in two directions at once, governed simultaneously by a tax policy that is stimulative and a monetary policy that is restrictive.

And in the end, these remain narrow concerns, bound by the traditional parameters of economic policy. Yet the United States—like other industrialized nations—may no longer operate in a traditional world. In Western Europe, some leaders are searching for new ways to link high employment and price stability. But here, the debate continues to be narrowly focused—on how much to jigger taxes, or how much to boost the money supply. The Administration's plan to cut business taxes next year is sensible. But that should be the starting point of a broad debate over economic policies—not the end of a narrow one.

Mr. HUMPHREY. Mr. President, I thank my colleagues for yielding to me.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, will Senator HUMPHREY stay in the Chamber a moment?

Mr. HUMPHREY. Yes, I am happy to.

Mr. JAVITS. I have heard the statement made by the Senator, whom I not only respect but love, about the Federal Reserve and the actions of its chairman, Dr. Burns for whom Senator HUMPHREY has very, very high regard.

I believe that the Federal Reserve was heavily at fault in what occurred. Most of us know that there are many other factors including the lower productivity of the American industrial machine as compared to other countries of the world. I believe, however, that it is only fair that Dr. Burns should have his day in court.

I, therefore, state, without engaging in a debate here, that because Senator HUMPHREY's speech was very well prepared, as is his wont, the reply should be equally well prepared. I shall submit this address to Dr. Burns and ask him to give me a reply which I will offer for the RECORD or perhaps read as Senator HUMPHREY has read his statement. May I say, too, I am just delighted, Senator HUMPHREY, that you had the spirit and the initiative to analyze this situation and to make this very thoughtful, very interesting, and very provocative speech today.

Mr. HUMPHREY. I am sure the Senator knows, as I said in the early part of my remarks, of my really deep affection for Dr. Burns.

Mr. JAVITS. I know.

Mr. HUMPHREY. That is a very sincere statement. We are good friends. But he also knows that whether I am right or wrong I have fundamental disagreements at times with him on what I call those interest rate policies. I cannot help it. I am a populist from the Midwest, and every time I see the economy moving up a little bit it seems to frighten the Federal Reserve; they get the jitters. The minute that the economy starts to cruise they say, "Put on the brakes," and the way they do it we have no control over in this body.

All they need to do is adjust the dials of the amount of money supply. But, more importantly, all they need to do is adjust the interest rate, the discount rate, and once they do that we can appropriate $20 billion here, and if they raise that interest rate by 1 percent or less, it vitiates the whole thing.

My plea is what your plea is, Senator. You and I are on the same wicket. I happen to believe, as the Senator from New York does, that we need monetary, fiscal, and budgetary policy coordinated, and that is why there is the Javits-Humphrey bill we have before this conference.

Mr. JAVITS. I thank my colleague. As I say, I do not want to engage in debate today, but I do feel that Dr. Burns should have his day in court. We all know there is very grave feeling that somehow inflation has defeated all of our conventional

means and that it has been accompanied by equally sticky unemployment.

I suppose the country might be said to be divided almost 50–50 on which is the worse curse. I happen to think unemployment is, and so does Senator HUMPHREY. But, nonetheless, this is a very big issue.

So all I am suggesting is to give the good doctor a chance to reply and, hopefully, I can get it overnight and read it into the RECORD.

Mr. HUMPHREY. May I assure the Senator that I will read it.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. BENTSEN. Mr. President, will the Senator yield a couple of minutes so that I might reply to the Senator from Minnesota.

Mr. DANFORTH. I yield 3 minutes to the Senator.

Mr. BENTSEN. I thank the distinguished Senator.

I would like to say to the Senator from Minnesota that I am very appreciative of the remarks he made. What little I made is on OPM, that is other people's money, borrowed money. So I start out with a bias in favor of low interest rates.

I know how many capital spending plans and business decisions are determined by the interest rate and equity return they are going to have. Many of those plans are shelved when interest rates get up to an unconscionable level where they cannot justify that kind of an expenditure. Unreasonably high interest rates discourage capital investment in this country. Our rate of capital investment is already very low compared to other industrialized nations making us less competitive in the world, adding to our unemployment rate and increasing the deficit in our balance of trade. A lot of that is engineered by interest rates and in what the equity return will be.

I would also like to say to my distinguished friend from Minnesota we have another body on the other side of the Capitol, and I understand the Senator has helped forge another bridge to that other body in that today there was an emotional outpouring to you in that other body with the great love and affection displayed for you there, of which we share in the reflected glory and of which we are very appreciative. I do believe that is the first time a Member of this body has addressed that body. That is another first for the Senator from Minnesota.

Mr. HUMPHREY. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

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## SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. DANFORTH. Mr. President, at the appropriate time I will send to the desk an amendment which is cosponsored by Senators RIBICOFF, ALLEN, ANDERSON, BAKER, EAGLETON, FORD, LAXALT, HATFIELD, MATSUNAGA, PACKWOOD, DOLE, LUGAR, and SCHMITT.

The effect of this amendment would be to provide a 10-percent reduction in social security tax rates for State and local governments and not-for-profit employers beginning January 1980.

The reason for the beginning date in January of 1980 is to address myself to a problem with the Budget Act. I do not want to be subject to a point of order. Originally, this amendment would have provided for a refundable tax credit payable to State and local governments and nonprofit employers equal to 10 percent of their total social security liability.

But for reasons having to do with the Budget Act, I have now modified my proposal in the amendment I will send to the desk which will provide for a simple reduction equal to 10 percent of the percentage tax rate which would otherwise be applied to all those classes of employers beginning in 1980.

In 1979 this group of employers would not be subject to the tax increase, social security tax increase, which we are now considering in this particular bill.

Mr. RIBICOFF. I wonder if my distinguished colleague, Mr. President, would yield for a few questions?

Mr. DANFORTH. Certainly.

Mr. RIBICOFF. First, I want to commend the Senator from Missouri for his understanding of the seriousness of this problem and his hard work in bringing about this amendment. I am privileged to be a cosponsor with him. But there are a few questions that should be answered, it seems to me.

Would this amendment in any way reduce any taxes paid below the current obligations?

Mr. DANFORTH. The answer to that question is, no. No employer will be paying less taxes in 1979 than he did in 1978. No employer under this amendment would pay less taxes in any year after 1980 than he did in 1979.

That question was raised to me by some people who were interested in the amendment, and we have specifically drafted the amendment to absolutely provide that there is not going to be any windfall for anybody. Nobody is going to be better off than he was in 1979.

As a matter of fact, as a class, this group of employers, governmental employers, and eleemosynary employers, is going to be suffering a tremendous increase in social security tax liability between now and the decade from now.

In 1976, last year, this group of employers paid $6.6 billion in social security tax liability. That amount would be increased in 1987 to an estimated $21.6 billion or a total increase of 227 percent if we do noting. If we do agree to this amendment, instead of having the increased social security tax liability for this class of employers go up 227 percent, it would only go up 197 percent.

Mr. RIBICOFF. The Nelson amendment, which addresses the same problem, does it give the same type of relief as given other groups?

Mr. DANFORTH. I am sorry, I missed the question.

Mr. RIBICOFF. Is it not true that only a small part of the huge increase in taxes these groups will pay will remain as in the Nelson proposal?

Mr. DANFORTH. That is absolutely correct. I think this is a very, very important point to be made. Social security taxes are going up on everybody no matter what we do in this bill. If we follow the Nelson proposal the social security taxes are going up. If we follow the Curtis proposal social security taxes are going up. If we do nothing social security taxes are going up very considerably and, particularly, on this last group of employers.

If we do absolutely nothing, nothing at all, in this bill in 1979 State and local governments and not-for-profit organizations will be paying $2.9 billion in social security taxes more than they are now because of base increases and rate increases that are already programed in existing law to take place at that time.

Mr. RIBICOFF. I wonder if I could have the appraisal of the Senator from Missouri as to what happens with his particular group of employers if they have to pay this increase in social security taxes?

Mr. DANFORTH. I think that it is important to recognize that this group of employers very often is existing on a very slim margin. I think anyone who reads the newspapers understands the fact that many city governments and many school districts are having a very difficult time right now. What is happening, for example, in New York City is something that the Senate has concerned itself about in the past.

We read in last weekend's newspapers that Toledo, Ohio, which I guess fortunately for it is not part of the social security system, had to close its public schools last week.

Similarly, the YMCA here in Washington, D.C. operates at a deficit of about $50,000 a year, and has for the last 7 years.

So we have a group of governmental units and not-for-profit organizations which very frequently are operating on a very slim margin, and it is on that group of employers that, with or without this bill, we are about to impose a very large increase in liability.

Mr. RIBICOFF. Is it not true that there is a very different situation as between the private, for-profit employer and the type of employer involved in this amendment? Is there not a benefit that the private for-profit employer receives that this type employer does not receive, and will the Senator please explain the impact on both employers?

Mr. DANFORTH. Yes. If an employer is in a profitmaking enterprise and he pays social security taxes, the amount that he pays in social security taxes may be recouped from Federal income taxes by way of deductions. Social security taxes paid are a deductible expense from the income taxes of a private, profitmaking enterprise.

Obviously, this group of employers is not profitmaking and does not pay Federal income taxes, and therefore it is not able to recoup any portion of the tax increase.

It is said, "Well, it is an advantage to this group of employers that they do not have to pay income taxes."

That is absolutely true; it is a tremendous advantage that Congress, in its wisdom, has given this group of employers. But it is also true that this group of employers, as previously stated, is operating on a very thin margin, and therefore what we are about to do to this group of employers is about twice as harsh as what we are about to do to the profitmaking employers.

A profitmaking employer, if it is a corporation and makes more than $50,000 a year, has a marginal income tax rate of 48 percent. That means that for every dollar in social security taxes paid, they get a deduction which is worth 48 cents. That does not apply, obviously, to not-for-profit employers.

Mr. RIBICOFF. Mr. President, I thank the Senator from Missouri. I share his belief that it is time to provide meaningful aid to our States and localities and to nonprofit organizations. I am pleased to be a cosponsor of this amendment and I urge its adoption.

Mr. President, I believe that it is time to provide some relief from increasing social security tax burdens to our State and local governments and our charities and schools. This group of employers will suffer a tripling of their social security tax liability over the next 10 years—a $15 billion tax increase. They cannot pass this through. They cannot have the burden offset by the Federal Treasury. They must face the decision of whether to reduce services, cut back on wages and employees, or pull out of the social security system.

These are not fat organizations. We are all aware of the constant state of fiscal crisis of our cities and States. They are forced to cut back on services every day. Do we want to add to that?

Private, for-profit employers receive some offset against their social security tax liability. They do not bear the entire burden. In 1979 they will receive an estimated $23 billion in offset. The Danforth proposal would give State and local governments and nonprofits approximately $1 billion in relief.

The Nelson proposal offers some modest relief to some of these employers—but only to those with high-paid employees. The Nelson proposal does nothing at all for those cities, towns, States, charities, and other nonprofits whose employees earn less than $19,500. The Danforth amendment offers these employers relief as well.

State and local governments and nonprofit organizations have the right to pull out of the social security system. Certainly their decision is not based solely on the tax burdens, but this growing tax burden does have some impact. We want to encourage all of these employers to stay in the system—not just those with high-paid employees.

Under the Nelson proposal the relief disappears over the years. The Danforth amendment offers some permanent relief. The problems of our State and local governments and our nonprofit employers will not lessen. Our help to them should not decline just as their burden increases.

Mr. DANFORTH. I certainly appreciate the questions and the comments of the Senator from Connecticut, who served so ably on the Senate Finance Committee and who participated in hearings on this bill and in the markup on it, and is very familiar with the details of what is involved.

I think that particularly in view of a letter which was sent out by Secretary Califano last night, it is important to recognize the fact that this proposal would not create a windfall for anyone. Nobody, no employer, is going to be better off as a result of this amendment than he is now. No employer, as a result of this amendment, is going to be better off in 1980 than in 1979.

Again, as a class of employers, State and local governments and not-for-profit organizations are going to witness, in the period of a decade, a 227-percent increase in their social security tax bill. What we are saying is that 227 percent is too much. We cannot afford to do everything for them. We cannot afford to hold them absolutely harmless. But what we can do is reduce the percentage of their social security taxes by 10 percent, so that, for example, if they were paying a 7-percent social security tax, it is reduced to 6.3 percent.

The result of this move would be that over the next decade, instead of experiencing a 227-percent increase, they would experience only a 197-percent increase, which in and of itself is very substantial.

There is a temptation here to talk only in terms of aggregate employers and in terms of great generalities. When I came over to the Senate floor yesterday and engaged in a colloquy with the Senator from Wisconsin (Mr. NELSON) on this subject, he said, in essence, "Well, the value of the dollar is shrinking anyhow because of inflation, and when you consider what is going to happen 10 years from now, it really does not matter that much."

Mr. President, the fact is that it does matter that much. It does matter a great deal for this group of employers. The question is not simply what is going to be the case in the year 1987, which seems a long way away, but what is going to be the case in 1979. What is going to be the difference between the social security tax liability of specific employers between 1976, which was last year, and 1979, when what we are about to do takes effect and when increases already programed in the law take effect?

I would like to give the Senate a number of examples of what is going to happen.

The city of Kansas City, Mo., is going to experience, over a 3-year period of time, an increase in its social security tax liability of $812,104.

The city of Lincoln, Nebr., is going to have an increase in its social security tax liability of $630,000.

For Omaha, Nebr., the increase will be $398,000.

Houston, Tex., will have its social security tax liability increase $811,000.

Milwaukee, Wis., will have its social security tax liability increase, in 1979, $534,668 over what it is this year.

The story with respect to colleges and universities is even more striking; and I think anyone who has any close connection at all with colleges and universities knows the very serious financial difficulties they are in right now. I am told some 16 universities are now charging annual room, board, and tuition of $7,000 a year or more per student, which has the effect of pricing middle income families, particularly families with more than one child, out of education in those institutions.

Yet what we are now saying, as a result not just of this bill but of what is already programed in the law, is that we are going to impose a very substantial increase in social security tax liability on colleges and universities.

The University of Texas—and I see the Senator from Texas (Mr. BENTSEN) on the floor—between 1976 and 1979, will have an increase in its social security tax liability equal to $2.92 million a year.

One Midwestern university reports that its social security tax liability in 1979 will be $2,281,000 more than it was last year. Washington University in the city of St. Louis will have its social security tax liability increased by a little over $1.5 million. This is just the social security tax liability, in addition to all other problems universities are having with the increased cost of energy and inflation in general.

The University of Missouri at Columbia will have its social security tax liability in 1979 increased to a point where it will be more than $3 million more than it was in 1976.

These figures are just 1979. This is just the immediate problem. This is not the problem extended with all of the rate increases and all of the base increases that we have programed into the law between now and the year 2000. The problem will get worse, not better.

All that is being said in this amendment is that we are putting too much of a squeeze on this group of employers who have such difficulty oftentimes passing on the cost to anyone else, and who will not be able to recoup any portion of it from the general revenue by way of a tax deduction.

There has been a lot of discussion on the floor of the Senate about whether or not we should be dipping into the Treasury itself, whether or not we should be drawing upon general revenue. It was part of the administration's proposal that we should be.

My senior colleague from Missouri offered an amendment yesterday to do approximately what the administration wanted to do, to draw upon general revenue and put that into the social security trust fund.

What is not really widely recognized is the fact that right now under present law we have very substantial general revenue funds used to finance social security, and it works because of the income tax deduction. That is, when there is a tax imposed on a profitmaking employer and he pays that tax to social security, he is going to recover 48 percent from the Treasury by virtue of reduced Federal income tax payments.

What we are saying in this amendment is that that is a form of general revenue

sharing. What we hope to do now is to provide some sort of cushion, even a 10-percent cushion, which is much less than we do for the profitmaking sector. We already do provide a very substantial cushion, a 48-percent cushion, for the profitmaking sector, the corporation earning $50,000 or more per year.

Let me give some other figures to drive home what we are talking about in this amendment, the problem to which we are trying to address ourselves.

The Salvation Army, I would submit to the Senate, is not exactly a well-heeled operation. Yet the Salvation Army is going to be facing a very substantial increase in the amount of money it must pay into the social security trust fund in the very near future.

The Salvation Army in the eastern region will have its social security tax liability increased from 1976 to 1979 by $581,000 a year.

The Salvation Army in the southeast region will see its social security tax liability increased over a 3-year period of time by $219,000 a year, the annual increased payout into the social security trust fund.

In the midwest region the Salvation Army is going to be paying into the social security trust fund by the year 1979 $400,000 more than it paid in 1976.

In the western region, the Salvation Army will be paying $456,000 more in 1979 than it did in 1976.

I could go on down the list. I could stand here with examples which I have before me and read them all day, as to the effect of what we are doing and have already done in the law to not-for-profit organizations and State and local units of government.

The American Cancer Society, a national organization, is going to be paying in $593,505 more in 1979 into the social security trust fund than it paid in 1976.

That is the kind of burden we are talking about. It is not an abstract issue at all. It is a question of how much can we squeeze out of these organizations; how much can we squeeze out of a school district that is already going broke; how much can we squeeze out of New York City or Buffalo, N.Y., which are already in a very precarious financial situation; how much, quite literally, can we grab out of the pot that Santa Claus is standing beside for the Salvation Army on the corners of our cities at Christmas time?

That is what we are talking about when we offer this amendment.

Mr. President, it seems to me anomalous for us—meaning the Congress—to provide as a matter of law that the General Motors Corp. can recoup 48 percent of its social security liability from the public till, general revenue, and that the Salvation Army can recover absolutely nothing.

What this amendment would do would be to simply reduce by 10 percent the amount that the Salvation Army or any other not-for-profit or governmental unit would have to spend.

I believe it is obvious that this group of taxpayers is in very serious financial condition. This is the point Senator RIBICOFF raised in asking his questions. It is obvious that cities all over the country, particularly larger cities, are having a difficult time making ends meet.

In 1976, the city of Detroit, Mich., had to eliminate 4,100 positions and cut salaries 8 percent. It had to further cut its funds for welfare services and prisoner care by 8 percent. Still it projected a deficit in its budget of $17.6 million last year.

I am told that since 1971 more than 200 colleges in the United States were compelled to either close their doors or merge. Again, this is the very class of employers who are going to suffer this tremendous increase of social security tax liability. It is much more of a blow to them than it is to the profitmaking sector. Unless we provide for some sort of relief by way of this amendment there is going to be absolutely nothing to cushion the blow.

We talk a lot about the role of Government, the responsibility of Government to take care of the needs of the American people. I believe in that. The American people expect things from their Government. The American people expect a first-rate education for their children. They expect first-rate health care when they are sick. They expect first-rate emergency services when they need them, police protection and fire protection. They expect first-rate social services when they need them.

But it is important to recognize, I believe, that these services are not performed by us here in Congress. They are not performed even by the Department of Health, Education, and Welfare. These services of educating the children of the American people and providing health care for the American people and providing emergency protection and social services for the American people are not performed here by the Federal Government in the marble palaces of Government in Washington. Instead, they are provided by local governments in cities like Joplin and Rolla and St. Joseph, and local school districts, which educate the children, and local hospitals located in communities all over this country. They perform the service.

When there is a disaster, it is the Red Cross that steps in, and when there are people in need, it is the Salvation Army or the United Fund Campaign or other organizations that take care of those needs.

That is how we take care of our sick. That is how we educate our people. It is not by any new study group that we have here in Washington. It is out there in the communities where the job is done.

I simply want to raise for the consideration of Members of the Senate that it is there local governments and these not-for-profit organizations who are really doing the job, who are extending care to those who are helpless and providing education for our children, and rescuing children from burning buildings, and everything else that is done in local communities. It is these groups of people that really provide the service to the poor and the needy and the helpless, and that we are increasing the social security tax liability of by 227 percent.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. DANFORTH. Certainly.

Mr. PACKWOOD. Do I understand correctly that, under the bill as now written, it would be the nonprofit organizations that would receive the biggest breaks in terms of tax break——

Mr. DANFORTH. Mr. President, may we have order in the Senate, please?

The PRESIDING OFFICER. Will the Senator suspend for a moment. Will the Members please take their seats and let us have the aisles cleared? It would be helpful if the conversations could be taken from the floor of the Chamber to the cloakrooms.

The Senator from Missouri has the floor.

Mr. PACKWOOD. Those nonprofit organizations that would receive the biggest breaks would be those that have the highest salaried employees. Many of the principal foundations that exist do have people salaried at $50, $75, $100, or, in some cases, $150,000 a year. The nonprofit organizations that would be the worst off under this are the ones that perhaps middle America is more familiar with—the Goodwills, the Salvation Armies—who generally do not have paid executives in that wage category.

Mr. DANFORTH. Yes. As the Senator is aware, the bill that has been reported out of the Committee on Finance provides for an authorization for an appropriation—nothing more than that—an authorization for an appropriation for some recovery from the Treasury for social security taxes paid by governmental and nonprofit employers. However, that provision that is now in the bill is keyed to the so-called Nelson proposal and would recover 50 percent of the social security tax liability caused by the differential between the employee's wage base and the employer's wage base. Therefore, it would have several things going against it.

One is exactly what the Senator is talking about now: Namely, it would only benefit those employers who pay fairly high salaries.

For example, we canvassed various foundations, and they asked that their names not be used, but they were well known, national eleemosynary foundations with very highly paid professional staffs— people with Ph. D. degrees, and so on, working on their staffs. Under the proposal of Senator NELSON, they would recoup about 17 percent of their social security tax liability; whereas, under the proposal that Senator NELSON has put forward, the Salvation Army, in Washington, D.C., and Virginia and Maryland—this region—would recoup $7.67.

Mr. PACKWOOD. How much additional tax would they pay?

Mr. DANFORTH. The Salvation Army, in this particular area—Washington, D.C., Virginia, and Maryland—would have a social security tax liability increase of approximately $13,000 and they would recoup, under his proposal, $7.67. It is my view, very frankly, that $7.67 is not adequate; whereas a much higher payment for, say, Brookings Institution or Rockefeller Foundation or Ford Foundation is not as big a problem to them as it is to the Salvation Army or to the Boy Scouts.

The Camp Fire Girls, for example, in this area, would recoup absolutely nothing under the provision that is in the bill now.

Mr. PACKWOOD. I do not mean this in any sense to disparage the Ford Foundations or Rockefeller Foundations of this country, but the very organizations that at least touch great groups of middle American taxpayers, touch them every day directly—pick up the old clothes or collect the newspapers—the very organizations the Senator says are going to be hardest hit, are the ones that have the most difficult time raising funds and have to raise them year after year, because they are not endowed; whereas, the well-heeled foundations are endowed foundations that do not have to raise money every year.

Mr. DANFORTH. That is right. The Senator has raised a good point. There are other things that are inadequate in pegging it to the base differential. If we go to the Nelson approach and peg it to the base differential, and, after the Curtis amendment, it seems that is the way we are going—but the way the base differential is set up, it appears that over a period of years, it would phase out so that the amount to be refunded would be declining as the social security tax liability is going up.

The second thing, of course, which is unfortunate about it is that it is keyed to the base differential proposal and, therefore, if it does not survive conference—if the House bill prevails in conference rather than the Nelson proposal—there would be absolutely nothing left.

Finally, it is nothing more than an authorization.

I might say that I intend, if I am successful in my first amendment, which is nothing more, really, than a social security tax rate reduction for this class of employers, it would then be my intention to offer a second amendment which would authorize an appropriation from general revenue into the social security trust funds to recoup the amount of revenue that is lost by this method. But, of course, Members of the Senate, assuming I would prevail on this, would be able to judge that as a separate, entirely different kind of question.

Mr. PACKWOOD. Mr. President, I think the amendment of the Senator from Missouri makes eminent sense. I congratulate the Senator from Missouri on the very, very yeoman, outstanding service he has done in the field of social security. I do not think anybody, in my memory, who has come to this Senate as a freshman has made such a tremendous impact on a subject so critical to America as has the Senator from Missouri on this subject.

Mr. DANFORTH. I thank the Senator very much.

I pointed out earlier that there was one difference between profitmaking employers and not-for-profit employers. That difference, again, was that profitmaking employers can recoup a very substantial portion of their social security tax payments from the Treasury by way of deductions from Federal income tax; whereas not-for-profit employers recover nothing. So, when we increase their tax, they are suffering about twice as big a marginal burden as the profitmaking employers were.

I think it is important to point out that there is yet another difference between the profitmaking employers and the not-for-profit employers. That is that the not-for-profit employers and governmental employers have the statutory right to get out of the Social Security System. They can, by filing a notice in a period of 2 years, withdraw from social security. If we place too high an additional burden on them, they will withdraw from social security and the result is going to be counterproductive.

For example, I see the Senator from New York here. New York City, as we know, its various governmental units, filed notice to withdraw and then withdrew their notice. But were New York to withdraw from the Social Security System, the loss to the trust funds between 1978 and 1982 would be an estimated $3.1 billion. So if we increase the pinch on this group of employers, it is going to be counterproductive as far as the solvency of the trust funds is concerned.

(Mr. SASSER assumed the chair.)

Mr. JAVITS. Will my colleague yield?

Mr. DANFORTH. Yes.

Mr. JAVITS. May I say, it is always refreshing when one begins to realize that New York represents an asset to our country, rather than what some would paint it as being a liability.

But I would like to say to the Senator that having heard him and looked over his amendment very carefully, tested it out with him, and otherwise its basic hypothesis, that I am with him and I shall vote for his amendment.

I think he is rendering us all a very constructive service in the way in which he has so thoroughly and brilliantly prepared his case and presented it to the Senate.

Mr. DANFORTH. I thank the Senator very much.

I know that the Senator from New York privately asked me about the number of governmental units and employees participating in this. I do not know the answer to that. But I do know this, that because of the opting out possibilities of both State and local governments and not-for-profit organizations, and because of increased social security tax liabilities that we have already experienced, there have been a large number of governmental units, and a large number of employees represented by those units, that in recent years have been withdrawn from the social security system.

In 1977, in this present year, the Social Security Administration estimates that 147 State and local governments with 26,121 employees will terminate their social security coverage in 1977, and an additional 219 governmental units with 81,534 employees have filed notice to withdraw in 1978 and 1979.

As far as the problem of social security, when one withdraws the number of employees and employers who are contributing to the system, it impairs the solvency of the system.

Mr. JAVITS. I thank my colleague.

Mr. BENTSEN. Will the Senator yield for a unanimous-consent request?

Mr. DANFORTH. Certainly.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Steve Sacher of Senator WILLIAMS staff and David Allen of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask the same request for Don Zimmerman of the Human Resources Committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, it seems to me that our role here in Washington is to try to be helpful to those governmental agencies and social service agencies throughout the country that provide meaningful services to the American people. Our role in Washington should not be to create emergencies for local government and emergencies for not-for-profit organizations and then rush in at some later date with emergency cash in order to bail them out, with all of the conditions and strings that so often are attached to that kind of a bailout situation.

Therefore, it seems to me for the sake of the health of what is going on in the rest of the country, for the sake of the health of communities all over America, we simply cannot deal them the kind of blow that we are dealing them, not just by this bill, but by changes in programs, by the law, without cushioning the blow just a little bit. What I would like to do is cushion that blow.

UP AMENDMENT NO. 1042

(SUBSEQUENTLY NUMBERED AMENDMENT NO. 1615)

(Purpose: To reduce the employment tax on States and nonprofit organizations by 10 percent of the amount of tax which such State or organization would otherwise pay.)

Mr. DANFORTH. Mr. President, for that reason, I send now to the desk an amendment and ask that it be considered forthwith.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself and Messrs. RIBICOFF, ALLEN, ANDERSON, BAKER, DOLE, EAGLETON, FORD, HATFIELD, LAXALT, LUGAR, MATSUNAGA, PACKWOOD, and SCHMITT), proposes an unprinted amendment numbered 1042.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 106 and insert in lieu thereof the following:

REDUCTION IN TAX FOR CERTAIN PUBLIC AND NONPROFIT EMPLOYEES

SEC. 106. (a) Section 218(e) of the Social Security Act is amended—

(1) by innserting ", subject to the provisions of paragraphs (3), (4), and (5)," after "will pay" in paragraph (1) (A) thereof; and

(2) by adding at the end thereof the following new paragraphs:

"(3) For purposes of paragraph (1)(A)

in determining the amount of taxes which would be imposed—

"(A) for calendar year 1979, the rates of tax under such section 3111 and the contribution and benefit base (as determined under section 230) which would have applied for calendar year 1979 under the law in effect immediately before the enactment of the Social Security Amendments of 1977 shall be applied; and

"(B) for calendar years 1980 and thereafter, the amount determined under paragraph (1)(A) as the taxes which would be imposed by such section 3111 (without regard to the provisions of this paragraph) with respect to such employees shall (except as otherwise provided in paragraph (5)) be reduced by 10 percent.

"(4) Each agreement under this section shall provide that any State whose payments under the agreement are reduced by reason of paragraph (3) or paragraph (5) shall agree to pay (and any such reduction shall be made on the condition that such State pay) to any political subdivision thereof a percentage shall be equal to the percentage of the amount paid by such State under paragraph (1)(A) for which such State was reimbursed by such political subdivision.".

"(5) The amount of the reduction resulting from the application of the provisions of subparagraph (B) of paragraph (3) for a calendar year shall not be greater than the lesser of:

"(A) the amount determined under paragraph (1)(A) as the taxes which would be imposed by such section 3111 for such calendar year (without regard to the provisions of paragraph (3)); or

"(B) the amount determined for calendar year 1979 under paragraph (1)(A) as the taxes which would be imposed by such section 3111 for calendar year 1979 (after application of the provisions of subparagraph (A) of paragraph (3)).

(b) Section 3111 of the Internal Revenue Code of 1954 (relating to rate of tax on employers) is amended by adding at the end thereof the following new subsections:

"(c) Certain Nonprofit Employers.—Notwithstanding any other provision of this section, in the case of an organization described in section 501(c)(3) which is exempt from tax under section 501(a) and with respect to which the taxes imposed by this section are paid, the amount of the taxes imposed by this section with respect to employees (other than employees who are primarily employed in connection with one or more unrelated trade or businesses (within the meaning of section 513) of such organization) shall—

"(1) during calendar year 1979, be equal to the amount which would be determined if the rates of tax under section 3111 and the contribution and benefit base (as determined under section 230 of the Social Security Act) which would have applied during calendar year 1979 under the law in effect immediately before the enactment of the Social Security Amendments of 1977; and

"(2) for calendar years 1980 and thereafter, be equal to 90 percent of the amount determined under this section (without regard to the provisions of this subsection).".

(d) Notwithstanding anything herein to the contrary where the amount of taxes imposed under subsection (c)(2) above is less than the amount of taxes paid under subsection (3)(A) above, an organization described in section 501(c)(3) which is exempt from tax under section 501(a) shall pay the lesser of (i) the amount of taxes which would be imposed under this section (without regard to the provisions of subsection (d)(2)).

Mr. DANFORTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, that concludes any comments I have on this amendment for the moment.

I do not know if Senator NELSON would like to offer any comments, or if anyone else would like to offer any comments.

Mr. NELSON. I did not hear the Senator from Missouri.

Mr. DANFORTH. I just sent the amendment to the desk and asked for the yeas and nays. I think I pretty well have made my argument on behalf of the amendment, unless anybody has any questions or would like to express any other views.

Mr. NELSON. Is the Senator expecting the amendment vote this evening?

Mr. DANFORTH. That, to me, is not necessary. I think it is whatever suits the Senator's convenience.

We could have it this evening or we could put it over until tomorrow.

I have some other problems tomorrow morning, but it depends on when we would come in.

I am ready for a vote.

Mr. NELSON. Let me ask the Senator, I am not clear which amendment the Senator has now called up, is it the tax reduction amendment?

Mr DANFORTH. Yes.

Mr. NELSON. I have not seen that. I do not know how much the reduction is.

Mr. DANFORTH. Ten percent. It accomplishes exactly the same purpose as the amendment offered in the Finance Committee except it is couched in terms of a reduction of the social security tax rates.

Mr. NELSON. Now, it reduces the tax rate. How much does that then cost the fund and how do we restore it?

Mr. DANFORTH. All right. Here is what this amendment does.

First of all, for the year 1979, and the reason for the situation is due to the terms of the Budget Act, but for the year 1979 it would do no more than hold this group of governmental employers and eleemosynary employers harmless from any additional increase in social security tax liability caused by this bill, for 1 year.

Then, beginning in 1980, it would compute the social security tax liability for this group of employers in exactly the same fashion as for the profitmaking employers except that after that percentage tax is computed, there would be a 10-percent reduction in that percentage.

So that if we were to compute the tax rate, just as we would for a profitmaking employer, and then come up with, say, 7 percent, the social security tax applied to this group of employers would be 7 percent, less 10 percent of 7 percent, or it would come out to 6.3 percent.

Then, finally, the amendment provides that in no case will the social security tax liability in future years be less than it was in 1979, or less than the amount that it would be for a profitmaking employer, whichever is less.

So we prefer the situation where there could not be any conceivable windfall for any employer.

With respect to the possibility of making up the difference, all this amendment does is to provide for those rate reductions.

If the amendment is successful, it is my intention at that time to offer a further amendment which would recoup, by way of transfer from the general fund, an authorization for an appropriation from the general fund of an amount equal to the amount of social security tax revenues lost by the first amendment.

Mr. NELSON. Would that authorization direct that the loss to the fund from the 10-percent reduction in the tax be paid by the general fund directly, then, to the social security fund, to make up the loss?

Mr. DANFORTH. That is right, yes.

Mr. NELSON. So, basically, it is the same as the other Danforth amendment.

Mr. DANFORTH. That is correct.

Mr NELSON. In terms of cost to the general fund. It is simply a different approach to achieve it.

Mr. DANFORTH. That is correct.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I understand that the manager of the bill, Mr. NELSON, will move to table the amendment by Mr. DANFORTH.

I ask unanimous consent that Mr. NELSON be recognized at 9:45 a.m. tomorrow and that, without further debate, he may proceed to move to table the amendment by Mr. DANFORTH.

Mr. NELSON. I would like, some time this evening, 5 minutes or so, to respond to the amendment proposed by the Senator from Missouri.

Mr. DANFORTH. Mr. President, reserving the right to object, if the vote is going to be set for 9:45 a.m. tomorrow and Senator NELSON is going to respond now, I wonder whether it would be possible to hold the vote at, say, 9:55 a.m. and to have 10 minutes of debate before the vote, evenly divided between Senator NELSON and myself.

Mr. ROBERT C. BYRD. I ask unanimous consent that at 9:45 a.m. tomorrow, the Senate resume consideration of the amendment by Mr. DANFORTH; that there be a 10-minute time limitation for debate at that time, to be equally divided between Mr. DANFORTH and Mr. NELSON; and that at 9:55 a.m., Mr. NELSON be recognized to move to table the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the motion which Mr. NELSON will make at 9:55 tomorrow morning to table the Danforth amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the Senator's motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, the rollcall vote on the motion by Mr. NELSON to table the amendment by Mr.

DANFORTH will begin at 9:55 a.m. tomorrow.

UP AMENDMENT NO. 1043

(SUBSEQUENTLY NUMBERED AMENDMENT NO. 1618)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1043.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 305 and insert in lieu thereof the following:

SEC. 305. (a) Section 402(a)(7) of the Social Security Act is amended by striking out "as well as any expenses reasonably attributable to the earning of any such income".

(b) Section 402(a)(8)(A)(ii) of such Act is amended by striking out "the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month" and inserting instead "the first $30 of the total of such earned income for such month plus an amount equal to any expenses (subject to such reasonable limits as the State shall prescribe) which are for the care of a dependent child and are reasonably attributable to the earning of any such income plus an amount which the State shall establish in lieu of disregarding other expenses reasonably attributable to the earning of any such income (which amount shall be a per centum, applied uniformly throughout the State, of not less than 15 per centum nor more than 25 per centum of the total of such earned income for such month) plus one-third of the remainder of such income after deducting $30, plus the amount equal to any expenses (subject to the limits prescribed by the States) which are for the care of a dependent child, plus the amount established by the State in lieu of disregarding other expenses reasonably attributable to the earning of such income".

(c) Section 402(a)(8)(D) of such Act is amended by striking out "was in excess of their need" and inserting instead "was in excess of their need (after deducting from such income an amount equal to any expenses, subject to such reasonable limitations as to amount or otherwise as the State shall prescribe, which are for the care of a dependent child and are reasonably attributable to the earning of any such income plus an amount which the State establishes pursuant to subparagraph (A)(ii) of this paragraph in lieu of disregarding other expenses reasonably attributable to the earning of any such income)".

(d) The amendments made by this section shall be effective with respect to payments under section 403 of the Social Security Act for amounts expended during calendar months after September 1977.

The PRESIDING OFFICER. Does the Senator from New York ask unanimous consent to set aside the amendment of the Senator from Missouri, in order that the amendment of the Senator from New York may be considered at this time?

Mr. CURTIS. Mr. President, reserving the right to object, may we hear what the request is?

The PRESIDING OFFICER. The Chair is questioning the Senator from New York as to whether he requests unanimous consent to set aside the pending amendment of the Senator from Missouri, in order that the amendment of the Senator from New York can be considered at this time.

Mr. CURTIS. By being considered at this time, does the Senator mean voted upon?

The PRESIDING OFFICER. No. Just brought up for consideration and discussion at this time.

Mr. CURTIS. The announcement has been confirmed there will be no more votes tonight. If that is not the order of things, I wish to know.

Mr. ROBERT C. BYRD. There might be a voice vote.

Mr. CURTIS. No.

Mr. ROBERT C. BYRD. No. All right.

Mr. CURTIS. Is this the amendment that reduces the recovery of an item in the bill from $320 million in favor of the Treasury down to about $117 million or $118 million?

Mr. MOYNIHAN. The Senator is correct. I believe the figures are $230 million to $119 million, and it is my purpose to introduce the administration-backed formula for the earned income disregard as a substitute for that which has been submitted by the Senator from Nebraska.

Mr. CURTIS. I have no objection to discussing it tonight, but I do not want to dispose of it. It is over $100 million.

With the understanding that there will be no votes tonight, I just feel in fairness to my colleagues as well as the importance of the vote that we should not vote tonight.

Mr. MOYNIHAN. That is an arrangement entirely agreeable with me. I believe that there should be a vote. It need not be a rollcall vote.

But would the majority leader help us here? Would it be possible to have this vote following the vote on the amendment of the Senator from Missouri tomorrow morning?

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from New York (Mr. MOYNIHAN) asks whether or not it would be possible to have the vote in relation to his amendment occur immediately following the vote on the tabling motion, and if the tabling motion fails, immediately following the vote, then, of the amendment by Mr. DANFORTH in the morning.

Mr. MOYNIHAN. That is correct, whatever is agreeable to the Senator from Nebraska.

Mr. CURTIS. I wish to be heard on this tomorrow. As I say, it is a $100-million item, and I will be prepared to state the case against it tomorrow.

Mr. DANFORTH. Mr. President, may I suggest that perhaps this could be considered before my vote rather than afterward?

Mr. ROBERT C. BYRD. Mr. President, I think we had better let well enough alone and leave the amendment of the Senator from Missouri as it now stands. If the Senator wanted to discuss his amendment tonight, no vote would be taken on it tonight.

Mr. MOYNIHAN. That is agreeable to me and we can move forward with the business. I want this statement in the RECORD.

Mr. ROBERT C. BYRD. Yes.

Is that agreeable that we temporarily lay aside Mr. DANFORTH's amendment for a moment to allow Mr. MOYNIHAN to call up his amendment and discuss it and with the understanding there will be no vote on that amendment tonight?

Mr. CURTIS. And not foreclose discussion of it tomorrow?

Mr. ROBERT C. BYRD. Exactly.

Mr. CURTIS. That is all right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the distinguished Senator from Nebraska.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me without losing his right to the floor?

Mr. MOYNIHAN. With pleasure.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, if I may have the attention of Senators, there are a number of budget waiver resolutions at the desk which have been reported by the Budget Committee this afternoon which would allow and which have relation to certain amendments that Senators want to offer tomorrow or at some point, and the distinguished Senator from South Carolina, who is the acting chairman of the Budget Committee, is here. He is agreeable at this time to our taking up those budget resolutions, and perhaps we could do that with some comments by the Senator from South Carolina; perhaps we could voice vote them singly or en bloc this evening, and we would have that much out of the way for tomorrow.

Will the distinguished Senator from New York allow the Senator from South Carolina to proceed on that basis?

Mr. MOYNIHAN. May I ask how long does the Senator from South Carolina expect to take?

Mr. HOLLINGS. Five minutes.

Mr. MOYNIHAN. Of course, with great pleasure.

Mr. ROBERT C. BYRD. I thank the Senator from New York.

Mr. HOLLINGS. Mr. President, I thank the distinguished leader. We shall move on. We are hopeful that this continuing resolution will be coming over from the House side. We think the SBA emergency loan disaster fund of $1.4 billion will be in there. If it is in there, we would like to be able to concur or if not at least conclude and send it back to the House before they adjourn. That is one of the things hanging around.

Mr. ROBERT C. BYRD. Still today?

Mr. HOLLINGS. Still today.

Mr. ROBERT C. BYRD. Mr. President, may I have the distinguished minority leader's attention, and still with the indulgence of the Senator from New York, the distinguished Senator from South Carolina has indicated that a continuing resolution is expected, I believe, shortly.

Mr. HOLLINGS. Shortly, that is right.

Mr. ROBERT C. BYRD. From the other body, which has to do with the District of Columbia appropriations bill.

Mr. HOLLINGS. That is right.

Mr. ROBERT C. BYRD. And the Labor-HEW.

Mr. HOLLINGS. And it has to do with the SBA disaster loan fund, $1.4 billion already approved by both Houses.

Mr. ROBERT C. BYRD. Yes, and the distinguished Senator from South Carolina wants the Senate to stay in until we can receive that continuing resolution which should be coming along shortly. I thought we better notify our respective cloakrooms.

Mr. BAKER. Mr. President, if the majority leader will yield, do we have any idea how long it will be before that happens because I think a number of our people have already gone home?

Mr. HOLLINGS. Unless there is objection I think it is a matter that could be handled by unanimous consent. I will ask the distinguished majority leader, or policy counsel, Mr. Hart, or others, since they are tracking it, do they have any idea. The House is going out tonight. If we get it back I know we can concur in it. We sort of crosswalked it twice today. It is momentarily expected right here.

Mr. BAKER. I think that is the only practical course to follow, and I have no objection.

Mr. ROBERT C. BYRD. Hopefully it can be done by voice vote.

Mr. HOLLINGS. Yes.

Mr. ROBERT C. BYRD. I thank the Senator.

## BUDGET WAIVER RESOLUTIONS SUBMITTED RELATING TO THE CONSIDERATION OF H.R. 9346

Mr. HOLLINGS. Mr. President, I ask unanimous consent that we proceed to the consideration to Senate Resolutions 317, 318, 320, and 321, the waiver resolutions referred to the Budget Committee and reported back at the desk without recommendation.

I ask for immediate consideration of those four resolutions and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Carolina?

Mr. BAKER. Mr. President, if the Senator will yield, reserving the right to object, and the Senator from Kansas shall not object, I did not hear the numbers. Were they Senate Resolutions 317, 318, 320, and 321?

Mr. HOLLINGS. That is right.

Mr. DOLE. That would cover the amendments of the Senator from Kansas, the Senator from Arizona, the Senator from Texas, Senator TOWER, and the Senator from Alabama, Senator ALLEN.

Mr. HOLLINGS. That is correct.

Mr. DOLE. I thank the Senator.

Mr. HOLLINGS. Mr. President, I again renew my request.

The PRESIDING OFFICER. Without objection, the resolutions will be considered en bloc.

The resolutions will be stated.

The assistant legislative clerk read as follows:

S. RES. 317

*Resolved,* That (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of an amendment to either H.R. 5322 or H.R. 9346 offered by Senator Dole relating to modifications in the provisions under which benefits for certain persons under title II of the Social Security Act are reduced because of their earnings; and

(b) That waiver of such Section 303(a) is necessary in order to enable the Senate promptly to consider changes in social security financing which are provided for in this amendment to H.R. 5322, in order to assure that the program is adequately funded, and which first become effective in fiscal year 1979.

S. RES. 318

*Resolved,* That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of Amendment No. 1541, intended to be offered by Mr. Tower in the nature of a substitute to HR 9346, the Social Security Financing Amendments of 1977. Such waiver is necessary to permit consideration of Amendment No. 1541, which would provide certain modifications in the present Social Security financing system to allow shifting of certain trust funds, modification of the earnings limitation, changes in the dependency test solution, alleviating defective indexing provisions, and establishing an outside commission to consider permanent financing alternatives. The waiver of this section is necessary to enable the Senate to consider promptly changes in the Social Security financing system which are provided for in the bill.

S. RES. 320

*Resolved,* that (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of amendments to either H.R. 5322 or H.R. 9346 offered by Senator Goldwater relating to modifications in the provisions under which benefits for certain persons under Title II of the Social Security Act are reduced because of their earnings; and

(b) that waiver of such Section 303(a) is necessary to enable the Senate promptly to consider changes in Social Security financing which are provided for in these amendments to H.R. 5322 or H.R. 9346 in order to assure that the program is adequately funded in future years.

S. RES. 321

*Resolved,* That at the end of the bill add the following new section:

"There is hereby allowed to each individual taxpayer, who has paid Social Security taxes as an employee, as a deduction from income subject to Federal income taxes an amount equal to 50 per centum of all Social Security taxes paid by such taxpayer in the calendar year 1979 and subsequent years, such deduction to be claimed on the taxpayers' return for the year in which such Social Security taxes are paid. Self-employed taxpayers may deduct 50 per centum of that portion of Social Security taxes paid by them that they would have paid on their earnings if they had been employees."

Mr. HOLLINGS. Mr. President, it is interesting to note that the Budget Committee reported these waiver resolutions back by a vote of seven Senators voting to disapprove and seven Senators voting to approve. It shows the mixed feeling that we have on this particular score.

I happen, as the acting chairman, to appreciate the fact that at least the Senate has adhered to this extent to the budget procedures by being willing to present formal waiver resolutions to be referred to the Budget Committee so that we could at least slow down the process for some 2 days here where if nothing else we have had a little bit of a chance to stem the onrush.

There is no question that my distinguished chairman, who is still bedridden, will be filing a statement if not tomorrow in person at least for the record, and I shall be glad to do it for him, containing a very definite feeling that this is a stinking way to proceed, and he emphasizes that herein that we should have under the Budget Act some 10 days in which to consider these far-reaching spending programs that go into the years by 1982 with an impact of some $8 billion, one of them, another some $7 billion, and another a loss, let us say, of $2.3 billion.

It is very difficult for the Budget Committee, without a committee report from the Committee on Finance, without a particular assessment as to the exact financial impact upon the budget, what it contains or amounts to, and without really due time to hear any witnesses, and then put it into context as to how, if nothing else, by way of priority, where it should be placed or, more specifically, when we come and change a retirement insurance program into an annuity program by eliminating entirely the income tax limitation provisions within social security, then you begin to see the frustration of many of the Members of the Senate on both sides of the aisle.

There is a very strong feeling, a very strong undercurrent, that it should be committed and considered next year. The leadership and the Committee on Finance feel otherwise, and the Budget Committee is trying to do its level best to do a job without becoming too involved with the merits.

So in that context we voted, and it sort of brings up a happy solution. The resolutions can now apparently, by a majority vote, go ahead and be approved. There will be no point of order, and we have made our point as best we can under the circumstances.

Mr. President, the Budget Committee has reported unfavorably on four waiver resolutions which have been submitted to the Budget Committee with respect to the waiver of section 303(A) of the Budget Act to permit consideration of several amendments to be offered by the distinguished Senator from Kansas, Senator DOLE, the distinguished Senator from Texas, Senator TOWER, the distinguished Senator from Arizona, Mr. GOLDWATER, and the distinguished Senator from Alabama, Mr. ALLEN.

Mr. President, I have to make it very clear that any recommendation would not go to the merits of any of these amendments. Indeed, there are members of the committee who would vote in favor of these amendments if they reached the floor. It is the responsibility of the Budget Committee, however, to carefully re-

view any bill, resolution or amendment which would have the effect of increasing or decreasing revenues or providing new budget authority in a year for which the first concurrent resolution on the budget has not been adopted. In each case, these amendments would first become effective in fiscal 1979. The Budget Committee has begun preliminary deliberations on the first budget resolution for fiscal 1979, but that resolution will not be adopted until May 15, 1978.

The Budget Act intended that the Budget Committee and the Congress should have the opportunity to review all spending decisions and all revenue proposals prior to the consideration of legislation which would affect revenues in the new fiscal year. Without this comprehensive review, Mr. President, the Budget Committee and the Congress are left in the unenviable position of having legislation on the books which ties the hands of the committee and the Congress in formulating a comprehensive congressional budget and in setting national priorities.

Mr. President, this, our recommendation, would not be a question of equity or of the Budget Committee acting because it did not endorse the substance of the amendments. This is not the case. This has never been the case. When the Budget Committee acts with respect to waiver requests such as this, we simply look at the overall budget impact and the consequences which may result from action on these amendments. It may be claimed that the Budget Committee would be choosing sides and acting in an unfair manner. Let me be very clear, Mr. President, that is not the case.

Mr. President, as reflected in the tied committee vote the Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 303(A) of the Budget Act. One of the major purposes of the Congressional Budget Act was to bring the Federal budget under better control. Through the adoption each year of the first and second concurrent resolution on the budget, Congress sets fiscal policy and national priorities for the fiscal year.

If legislation affecting spending or revenues for a future fiscal year is considered prior to the adoption of the first concurrent resolution on the budget for that year, to that extent Congress loses control of the spending and priority decisions for that year. However, the Budget Act recognized that in some situations it may be appropriate to consider such legislation before the adoption of the first concurrent resolution.

Mr. President, we believe that because of the unusual circumstances presented by this legislation, it is now appropriate for the full Senate to vote on these resolutions.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. McCLURE. I thank the Senator for yielding.

I take this time only to make one very brief comment. I am not very certain I know what we have done now as a Budget Committee. Under the Budget Act we are required to make recommendations on waiver resolutions.

When the resolution of waiver comes to the Budget Committee instead of waiving the provisions of the act or failing to, refusing to, waive the provisions of the act, we send a piece of paper back without recommendation. Does that mean the Budget Committee waived the provisions of the act or does it mean the Budget Committee refused to waive the provisions of the act?

It seems to me it does neither. I am not at all certain that the precedent we are establishing, if, indeed, this is any precedent, is superior to the position that might be taken by the Budget Committee to at least say, "This is a unique condition, a unique situation, under which we will waive the provisions because of the unique situation," instead of ducking the issue completely, by saying, "We will return them, but we have neither waived nor refused to waive the provisions of the act."

This is a unique situation, and I hope the Senate and the committee will not regard the action that has been taken by the Budget Commitee as a precedent in any way.

I happen to have indicated my approval of the waivers simply because it is a very difficult situation with which the Senate is confronted, and not because I think it is particularly desirable for the Budget Committee to waive the provisions of the act, and I would not have voted that way except in the very unique situation which confronts the Senate on legislation at this time.

I think the people who objected earlier today, among them my very eloquent friend from Kansas, who was very vocal, said that the situation foreclosed any options that the Committee on Finance proposal could be approved under the Budget Act. It had no conflict with the budget resolution, but any of the alternatives to the Committee on Finance action would violate the budget resolution.

For that reason, and that reason alone, I voted to waive the provisions of the Budget Act.

But I cannot imagine what it means when a committee which is called upon to either waive the act or to refuse to waive the act simply returns the waiver resolution with no recommendation. That is not action, in my judgment. It is not discharging the committee responsibility. I hope we have not established any kind of precedent by this action.

The only way in which it can be read is meeting a very, very unique situation on the floor of the Senate in a very pragmatic way.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. DOLE. Mr. President, first, I understand the distinguished Senator from Oklahoma (Mr. BELLMON) is on his way to the floor and would like to speak for one moment when he arrives.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Kansas may proceed.

Mr. DOLE. Second, if I can just take a moment to thank my distinguished colleagues on the Budget Committee, the Senator from Kansas, being a member of the full committee, and also a member of the Committee on Finance, understands the problems the Budget Committee has, and I think probably from a technical standpoint they were absolutely right. But the facts are that in the bill wherein a waiver was granted, it contained a provision much like three of those or at least—yes, about three of those were addressed in this fashion by the Senate Budget Committee.

As the distinguished Senator from Idaho has pointed out, I am not certain as to where we are, but at least we resolved without setting a precedent the problem before the Budget Committee at the immediate time.

I would hope the Senate would approve the resolutions or whatever on a voice vote so we might proceed tomorrow to maybe complete the bill or vote up or down. So I thank my distinguished colleague from South Carolina, and I again suggest that the Senator from Oklahoma should be heard in just a second. He wanted to be here and wanted to be heard for 1 minute.

Mr. McCLURE. Mr. President, might I address a parliamentary inquiry to the Chair?

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. What is the parliamentary situation? What will the Senate be acting upon if the Senate acts on anything?

The PRESIDING OFFICER. The question is on considering en bloc four budget waiver resolutions.

Mr. McCLURE. And the budget waiver resolutions are actions of whom? Are they a Budget Committee waiver?

Mr. HOLLINGS. Mr. President, if I might be recognized——

The PRESIDING OFFICER. These are resolutions which were referred to the Budget Committee and then reported from the Budget Committe without amendment or recommendation.

Mr. HOLLINGS addressed the Chair.

Mr. McCLURE. Mr. President, will the Senator withhold for just a moment? I thank the Senator for that courtesy.

I am puzzled because as I read the Budget Act the Budget Committee must waive the provisions, not vote upon or report a resolution of waiver, and that is the reason for my dilemma.

Mr. HOLLINGS. Mr. President, actually the committee can be discharged within 10 days under the Budget Act. So what we have before us are the resolutions of waiver for adoption or rejection by the Senate itself.

With respect to the Budget Committee, it has reported them back without recommendation by a 7-to-7 vote. Now we have it up for consideration by a voice vote. I see my colleague, the Senator from Oklahoma, is now here, and we could at least agree to consider them en bloc, and then I take it those who would be in favor of the waiver would move the adoption, and that would be the way to act because all we can do is waive or just not waive.

Mr. McCLURE. Might I just for the

record state the following: The act requires that the reporting committee ask for a waiver where the committee action is that which requires a waiver.

The PRESIDING OFFICER. The Chair will observe that under section 303(c) of the Budget Act, the Budget Committee cannot waive but can only recommend a waiver, and only the full Senate can act and waive the Budget Act.

Mr. McCLURE. As I say, the Chair anticipated the wrong question, that where the committee takes action that will require a waiver the committee reports a waiver resolution, and that waiver resolution is referred to the Budget Committee for action, and the Budget Committee would then take action on that waiver resolution by way of agreeing with it or disagreeing with it and, perhaps under the circumstances, reporting it back without recommendation.

This, however, is not committee action which we are asked to act upon, and therefore, there was no resolution of waiver from the committee asking us for a waiver; am I not correct?

The PRESIDING OFFICER. The Senator is correct as to the genesis of the resolutions. They were not reported from standing committees and then referred to the Budget Committee. They were introduced by individual Senators and referred to the Budget Committee, a procedure——

Mr. McCLURE. Individual Senators introduced waiver resolutions dealing with individual amendments which they hoped to offer; is that the situation?

The PRESIDING OFFICER. That is correct. There is no provision for it in the Budget Act, but——

Mr. McCLURE. Would the Chair repeat that?

The PRESIDING OFFICER. There is no provision for it in the Budget Act, the Chair is advised, but Senators have a generic right to introduce resolutions.

Mr. McCLURE. I presume that is, indeed, the situation, though maybe not quite that. The reason why I am concerned about it is that the origin of the resolutions is not provided for by the statute and is not provided for by any of the existing rules of the Senate.

It may, indeed, be a generic right of Senators, but this is a matter of first impression, as I regard it, of the Budget Act, in which, in anticipation of an amendment which might be offered on which a point of order might be raised, we have sent a resolution to the Budget Committee for action before it has ever been presented to the Senate.

I just hope, again, that this entire proceeding may not necessarily be held to be a precedent for all future actions of similar nature, because I am not certain that that is what the Senate wishes to do by way of establishing a precedent on actions that are not covered by the budget law itself.

I am not going to question the action any further than to say it is outside of the statute, and I think we need to be very careful before we establish a precedent of this kind, not only in the origin of the resolution but in the treatment of the resolution, which is not provided for by the act.

It is not the intention of the Senator from Idaho to object to this proceeding, because I believe it is a pragmatic solution to the problem with which the Senate is confronted, and does act with substantial justice to those Senators who have sought and will seek to offer amendments to the pending legislation.

The PRESIDING OFFICER (Mr. METZENBAUM). The Chair wishes to make a statement at this point.

Even though the Budget Act provides special handling for waiver resolutions reported from a standing committee relative to the action of that committee, it does not preclude individual Senators from introducing such resolutions; and since the Budget Act, in another section, specifically section 904, allows a motion to waive to be made by any Senator, the Chair believes it is consistent to permit any Senator to introduce a resolution to waive.

Mr. McCLURE. Well, now, I am sorry the Chair decided to make that announcement, because I think that is completely gratuitous, and establishes exactly the thing I was seeking to avoid in terms of a precedent being made for procedures outside of the budget law. It may be something that will work, and it may be the kind of thing that, upon reflection, the Senate will wish to adopt. But the Senator from Idaho was trying to avoid writing into the precedents of the Senate something that is not provided for by the statute but is not objected to by any Member, including the Senator from Idaho.

I hope that we may, indeed, as a Senate, upon some reflection, and as a Budget Committee with some reflection, discuss and determine whether or not this is the procedure which we want followed in the future upon amendments which may be offered in the future by any Member of the Senate.

The PRESIDING OFFICER. The Chair agrees with the Senator that this is totally a matter of the Senate's choice.

Mr. BELLMON. Mr. President, I would like to say for the record that the Senator from Oklahoma voted in favor of these waivers, and I would like to explain briefly my reasons. I would like to say the opinion I am going to give is mine alone, and is not in any way representative of other members of the Budget Committee; and also I would like to say that this is a new matter, and my own ideas on it are subject to change.

I feel that the Budget Committee has a somewhat restricted role as far as waivers are concerned. Realistically, there are some things we can do and some things we cannot do. I believe we can slow down runaway spending legislation, and make certain that the Senate fully understands the impact of what we are doing, that we have fully costed out the various proposals, and that we understand the impact, the effect, and the big word we hear so much now, the macroeconomic impact, so that we know the related economic effect in other areas.

But I doubt that the Senate expects or would long permit the Budget Committee to deny access to the floor to any Senator who has a proposition he might wish others to consider. So I doubt that it would be possible for the Budget Committee to start denying waivers and make those denials stick. I believe our proper role is the role we have tried to play here today, and that is to slow down these waivers and look at them carefully before anyone realizes their full impact.

I consider this to be a considerable contribution. It is a great improvement over the past, when multibillion-dollar amendments could be brought up on a moment's notice without prior warning, without any chance for costing to take place, and written into bills without anyone having an opportunity to understand their full impact.

The process is new. We may find that the role of the Budget Committee is considerably different than I have described it, but I feel we have met our responsibility in bringing the waivers back to the floor for the Senate's action.

Mr. ALLEN. Mr. President, I move that the resolutions be agreed to, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The resolutions are, by previous agreement, being considered en bloc.

Mr. ALLEN. I move that the resolutions be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

The PRESIDING OFFICER. The resolutions are agreed to en bloc.

Mr. LONG. I move to reconsider the vote by which the motion was agreed to.

Mr. ALLEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. DOLE. Mr. President, I wonder if, with the concurrence of the distinguished Senator from New York (Mr. MOYNIHAN), we might have unanimous consent to proceed for 3 minutes with another amendment.

Mr. MOYNIHAN. I am happy to yield for that purpose.

The PRESIDING OFFICER. Is there objection to the temporarily laying aside the amendment of the Senator from New York for the purpose of calling up other amendments? Without objection, it is so ordered.

### UP AMENDMENT NO. 1044

(Purpose: To clarify the tax liabilities of certain non-profit organizations.)

Mr. DOLE. Mr. President, I send to the desk an unprinted amendment in behalf of myself and the Senator from Maryland (Mr. SARBANES), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. SARBANES, proposes an unprinted amendment numbered 1044.

The amendment is as follows:

At an appropriate place, insert the following:

"Section 3121(k)(4)(B) of the Internal Revenue Code of 1954 (relating to the period of not less than three calendar quarters during which taxes imposed by sections 3101 and 3111 were paid) is amended by deleting the period at the end thereof and inserting in lieu thereof:

"'(iii)', or if the organization, prior to the end of the period referred to in clause (ii) of such subparagraph, had applied for a ruling or determination letter acknowledging it to be exempt from income tax under section 501(c)(3), and it subsequently received such ruling or determination letter and did not pay any taxes under sections 3101 and 3111 with respect to any employee with respect to any quarter ending after the twelfth month following the date of mailing of such ruling or determination letter and did not pay any such taxes with respect to any quarter beginning after the later of (I) December 31, 1975 or (II) the date on which such ruling or determination letter was issued'."

Mr. DOLE. I might say very quickly, Mr. President, that this amendment has been discussed by myself and the distinguished Senator from Maryland (Mr. SARBANES) with both the minority and majority side.

This is a technical amendment to clarify certain tax liabilities of a few tax-exempt organizations. All organizations which qualify under section 501(c)(3) for tax exemptions are also exempt from payment of FICA—social security—taxes unless they waive that privilege. This ability to waive the tax immunity has created an unfortunate situation for a few charitable organizations.

In the past, some 501(c)(3) organizations paid FICA taxes and inadvertently did not file a waiver. To help them, Congress passed Public Law 94–563 which provided that if an organization paid FICA taxes for three quarters, a waiver of its FICA exemption would be implied. This law applied to all tax-exempt organizations, regardless of when they received their tax exemption.

AMENDMENT IS STRICTLY LIMITED

My amendment only concerns those organizations which had applied for but not received their tax exemption. These organizations were obligated by law to pay FICA taxes until given a tax-exempt for the FICA taxes paid during the interim were then refunded by the IRS. The problem for these groups only arose after Public Law 94–563 was enacted.

Although these groups had no intention of waiving their tax exemption, a waiver is still implied by Public Law 94–563. These organizations would thus be liable for years of FICA taxes. Payment could bankrupt them.

CONSISTENT WITH CONGRESSIONAL INTENT

The original reason for exempting charitable organizations from FICA taxes was to free more money to be spent on their charitable and educational projects. My amendment would preserve this FICA exemption privilege for those organizations which desire it.

If any group that had a tax exemption pending truly intended to waive its FICA exemption, my amendment would not prevent them from filing a waiver. The only impact of this amendment would be on those few groups who inadvertently lost their FICA exemption and are faced with back taxes.

Mr. President, I believe that my amendment is in keeping with the intent of Congress to exempt charitable organizations from the obligations of paying FICA taxes. Now is the proper time for Congress to correct the mistake it made in Public Law 94–563 and I urge the adoption of my amendment.

The amendment relieves certain nonprofit organizations from being adversely affected by Public Law 94–563. It is the responsibility of the affected organizations to apply to IRS for reopening of their cases under this amendment. No obligation is placed on IRS to reopen such cases on its own motion.

Mr. President, I hope the amendment will be accepted.

Mr. LONG. Has the Senator's amendment been agreed to?

Mr. DOLE. I am waiting to see if the amendment is agreed to.

Mr. LONG. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1045

Purpose: To provide coverage for policemen and firemen in Mississippi.

Mr. LONG. On behalf of the two Senators from Mississippi, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), for himself Mr. EASTLAND and Mr. STENNIS, proposes an unprinted amendment numbered 1045.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

COVERAGE FOR POLICEMEN AND FIREMEN IN MISSISSIPPI

SEC. 130. Section 218(p)(1) of the Social Security Act is amended by inserting "Mississippi," after "Maryland.".

Mr. LONG. Mr. President, this language is in the House bill and it would permit certain policemen and firemen in the State of Mississippi to have the same election which has been provided in 21 other States and the Commonwealth of Puerto Rico. I see no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PELL. Mr. President, I am pleased to join today with my colleagues to urge the Senate to accept an amendment to the social security bill to reextend the Federal supplemental benefits (FSB) unemployment insurance program.

This program provides 13 additional weeks of unemployment compensation benefits to unemployed workers who have exhausted their initial 39 weeks of such benefits. This section of the law expired last week, and I believe that present economic conditions cry out for it to be extended.

My State of Rhode Island is one State where this legislation will have an immediate and critically important impact. In addition, as the winter inevitably causes some work stoppages and some increases in unemployment along with fewer new job openings, the present need for this program will actually increase.

Right now, about 300 Rhode Islanders per week apply for benefits under the FSB program. If this program is reextended, it could mean that as many as 1,200 unemployed workers per month could begin these necessary benefits, and if the program is extended for 6 months as in our proposal, then 7,200 workers and their families could participate in its benefits.

I urge my colleagues to support and vote for this important program. Our national economy is simply not producing enough new jobs quickly enough for us to let this program fade away. It provides a minimal, but vital level of assistance to unemployed workers, and it deserves a renewal for another 6 months.

Mr. MOYNIHAN. Mr. President, the subject before us today is the future financing of the social security system. But it is inseparable from another set of profound social policy issues that are also embedded in the Social Security Act: those associated with aid to families with dependent children, and with President Carter's far-reaching proposal to reform that program as well as a number of other public assistance programs.

On September 12, I introduced S. 2084, the program for better jobs and income, on behalf of the Carter administration. I stated at the time, as I had when the President first announced it in August, that I agreed with its general goals and directions. I said that, "The President has, as he pledged, undertaken the great task of making this Nation's welfare system more rational, equitable, and humane, and has done so with vigor and good faith, mindful of the general proposition that most people do, can, and ought to work for their livings." "The fundamental assumptions behind the plan," I added, "are clearly praiseworthy: the concept of a national floor under cash benefits, paid for by the National Government; the attention to improved financial incentives for work; the provision of income supplementation for the 'working poor' and the conscientious effort to relieve some of the fiscal burden now borne by State and local taxpayers, particularly in those jurisdictions that have historically been most generous toward their least fortunate residents."

As we set about examining the specific legislative language of the bill, and as reactions and analyses began to flood in from many quarters, one difficulty with this proposed legislation was obvious above all others: the proposition that States and localities must wait 3 years, until the reformed welfare system was fully in operation, before realizing any of the fiscal relief that they so urgently need.

Meanwhile, in the context of another piece of legislation, the Committee on

Finance had responded to my fervent pleas for some immediate fiscal relief for hard-pressed States and localities. I asked for $1 billion, spread over 2 years, with actual State receipts in the second of those years linked to improvement in their welfare error rates.

This proposal was warmly endorsed by the Governors, by the mayors, by the county officials, and by others troubled by the heavy fiscal burden that soaring welfare costs were imposing on our State and local governments. They also urged the administration to embrace the idea of interim fiscal relief within its welfare reform plan.

On Tuesday, that happened. In a splendid decision, President Carter added greatly to the momentum for passage of his welfare reform bill in the next session of Congress by agreeing to link welfare reform to interim fiscal relief for States and localities. Indeed, he and Secretary Califano agreed to go further than we had initially proposed, and to endorse the prospect of fiscal relief in all 3 years between now and the implementation of the administration's comprehensive welfare reform plan.

The second and third installments of that interim fiscal relief will come before us later, in the form of modifications to the President's welfare reform bill now before the committees. The first installment, however, is before us today, as an integral element of the social security financing bill reported by the Committee on Finance. It provides $374 million to States and localities in fiscal year 1978, which began 1 month ago, distributed according to a formula that the Finance Committee developed, and that the administration has agreed to, under which half of each State's allocation is based on its AFDC expenditures and half is based on the formula of the general revenue sharing program. There is a further provision that these funds be "passed through" to local governments in those States where the localities share in the costs of aid to families with dependent children.

This is a reasonable amount. While it represents only a modest fraction of current outlays in this multibillion-dollar enterprise, it will confer real and substantial benefit in the current year on every one of the 50 States. And, just as importantly, it will serve as an earnest of our commitment to genuine welfare reform, and to the sizable amounts of fiscal relief that must be part of any genuine welfare reform plan.

The Committee on Finance had also proposed some other interim modifications to the current welfare system, based on the committee's strong belief that the prospect of comprehensive reform 3 years hence did not obviate the need for some easily implemented improvements in the present, jerry-built programs. Accordingly, and again with the full support of the Carter administration, three such improvements are also before us today as part of the committee's bill. A bit later, I will speak to a fourth provision, which must be altered slightly before it is entirely agreeable to the administration.

First, the States are authorized to conduct limited work demonstration projects as part of their AFDC programs. Up to three such projects can be undertaken by any jurisdiction wishing to do so. States desiring to conduct such programs must first submit them to the Secretary of HEW, who will have 45 days to consider them. If not disapproved by him in that time, the State can put its plans into effect. It is important to note that participation in such programs will be entirely voluntary from the standpoint of the individual welfare recipient.

Second, the States will be given access to social security wage records, and to unemployment insurance records, for purposes of verifying the eligibility of welfare applicants. This access will be strictly limited to the purposes of verification, and will be supervised by the Secretary of HEW. I would note that many States have been seeking this access for years. In New York, for example, State officials estimate that as much as $100 million a year may be saved by allowing the welfare agencies to consult these records as part of their review of individual applications.

Third, because a high "error rate" has been a persistent problem in the AFDC program, States will be given modest financial incentives to bring their error rates below 4 percent per annum.

The Committee on Finance, and the administration, all look upon these provisions as a "package" providing fiscal relief on the one hand and, on the other, a trio of modifications to the current AFDC program designed to make it more efficient, economical, and effective.

I cannot close these brief comments without remarking once again on the splendid boost we are now in a position to be able to give to the concept of welfare reform. While more than fiscal relief and minor program modifications are obviously required, passage of the measure before us today will signal to the entire Nation our commitment to serious reform of a system that is widely—and accurately—regarded as costly, inequitable, and confusing.

Mr. BAKER. Mr. President, Senate consideration of legislation to remedy the financing difficulties confronting the social security system is overdue, and I am pleased that we are now addressing the need to take action to insure the future fiscal stability of the system.

Since its inception, social security has evolved into a comprehensive retirement, disability, and survivors' insurance system which reaches almost every American family. While the system has its weaknesses, its mandatory nature and almost universal coverage has made it possible to provide a level of social insurance to millions which relatively few would be able to obtain for themselves. To fail to assure adequate future financing would be devastating, not only to the 33 million Americans who now rely upon social security benefits, but also to the more than 100 million now paying into the program.

The deficit facing the social security trust funds, which is calculated to be about 8.2 percent of payroll over the next 75 years, is the result of a combination of factors. About half of the deficit is the result of a defect in the formula for computing benefit increases which has resulted in benefits rising at a faster rate than wages. This flaw can be corrected by indexing future benefits to wages, as recommended by the Committee on Finance, in order to insure that the ratio of benefits to wages before retirement remains about the same. Other factors affecting the financing problem are the loss of revenues to the trust funds as a result of recent high rates of unemployment and the declining birthrate, which produces fewer workers entering into the system. In addition, the number of disability beneficiaries has increased by 1 million since 1972—an increase unanticipated by the Congress and one which is expected to deplete the Disability Trust Fund by 1979.

While the problems associated with the disability insurance program are not addressed in the legislation before us today, I was pleased to learn that the House Subcommittee on Social Security plans to review the program next year as phase II of the social security issue. I hope that this body will also examine the causes of the large increases in disability claims and devise solutions wherever possible.

The range of options available to us to respond to these problems is limited and, as is so often the case, none of them is perfect. One alternative, which has been recommended by President Carter, is to rely upon infusions of general revenues in order to make up part of the deficit. There are two strong arguments against this recommendation, however, which have persuaded me that the President's proposal would be ill-advised. First, relying upon general revenues will erode the "earned-right" nature of the social security system—an aspect of the program which, in my view, accounts in large part for the overwhelming public support the program has received throughout the years.

Second, when the financing of benefits is not directly dependent upon tax contributions of employers and employees the pressures upon Congress to further expand benefit levels and eligibility will become even more severe than they now are.

A second alternative, and one which has been rejected by the House, would be to gradually increase the retirement age to 68. While I am aware that life expectancy for Americans has improved since the retirement age of 65 was first established, it is my view that it would be a serious breach of faith for the Congress to reduce what for many elderly Americans is a very short period of retirement after long years of labor. For this reason, I have also rejected this option for coping with the deficit.

Our remaining alternative, Mr. President, is to continue to rely upon the traditional method of financing the system through employer and employee taxes. After reviewing the problems confronting us, I have concluded that this is the most realistic means of insuring the sol-

vency of the social security program and protecting the rights of future beneficiaries.

In arriving at the combination of wage-base and tax-rate increases which will be necessary to accomplish that goal I hope that we will refrain from the temptation of placing a disproportionate share of the tax burden upon middle-income wage earners who are already laboring under the severe effect of inflation on income tax rates. In addition, I would caution against deviating from the traditional parity which has been maintained between taxes on employers and employees by mandating heavy tax increases for employers. While the full economic effects of any tax increase cannot be predicted with complete accuracy, it seems clear that employers will not magically absorb such taxes but will pass them on to employees by cutting back on their labor force and on wages and benefits. Moreover, I fear that proposals to eliminate the wage base upon which employers pay social security taxes will bring on a new round of financing difficulties in future years as benefits, which are calculated upon employees' earnings subject to the tax, rise along with the wage base.

There is no doubt, Mr. President, that any increase in the social security tax will take its toll upon all workers now contributing to the system and that, depending upon how it is designed, it will affect some workers more than others. I see no choice for us, however, but to approve such an increase, for the alternative would be to abandon a program that is literally vital to millions. Accepting this fact, I believe that we can best serve the needs of the Nation by fashioning a measure which will distribute the burden as equitably as possible among classes of wage earners and employers.

As part of this effort, Mr. President, we have an opportunity to remedy some of the inequities which currently exist in the program. I am pleased that the Finance Committee has recommended increasing the earnings limitation on retirees under the age of 72. I have long supported such an increase, and I hope that we will be able to remove the limitation entirely for those who continue to work after retirement.

In addition, I support the changes which the committee has recommended to alter those aspects of the program which discriminate on the basis of sex, including those changes which have been mandated by recent Supreme Court decisions.

One of the most heatedly argued issues which has been raised in connection with the social security debate this year has been whether or not Congress should require coverage of Federal employees under the social security system. The civil service retirement system, which is mandatory for all but a few Federal employees, varies from social security in many ways—including the fact that Federal employees pay a larger tax on a larger portion of their income in order to receive higher benefits.

Thousands of retired employees, as well as those now working for the Government, rely upon this program as their sole source of retirement income. To mandate coverage of these employees under social security by a certain date without a more thorough examination than has yet been made of how the two systems would mesh would do an injustice to Federal employees, and I would oppose such proposals. If the Congress should determine that it is best to bring Federal employees into the social security program, then we should take whatever action is necessary to review the two systems and devise a method of combining them which will assure Federal employees that they will not be deprived of the retirement benefits which they have earned.

Mr. President, this legislation is one of the most complex measures which the Senate has considered this year and these remarks have touched upon only a few of the many issues which will be raised during discussion of the bill and amendments to be offered on the floor. I hope that, in the course of this debate, we will bear in mind the far-reaching impact of the actions we take today, as well as the need to restore public confidence in the social security system.

## EMPLOYEE RETIREMENT INCOME SECURITY ACT

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9378.

The Presiding Officer laid before the Senate H.R. 9378, an act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for 2 years, the date on which the corporation first begins paying benefits under terminated multiemployer plans.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its immediate consideration.

Mr. WILLIAMS. H.R. 9378 is an urgently needed bill that will defer mandatory coverage of the multiemployer pension plan termination insurance provisions of the Employee Retirement Income Security Act of 1974. It was passed by the House of Representatives on November 1, 1977. It is identical to S. 2125, which was reported favorably, with an amendment, jointly by the Committees on Human Resources and Finance, also on November 1, 1977.

When ERISA was enacted in 1974, there was some uncertainty regarding the impact of the pension plan termination insurance provisions of title IV of ERISA on multiemployer plans. So, Congress provided in the 1974 law that for the period from enactment until January 1, 1978, insurance benefit payments in the case of terminations of multiemployer pension plans would be discretionary with the Pension Benefit Guaranty Corporation, which administers title IV or ERISA. We also provided that as of January 1, 1978, this discretion would end, and insurance benefit payments would have to be made by the PBGC for an underfunded multiemployer plan which terminated on and after that date, if that plan were otherwise covered by title IV.

PBGC has reported to us that a significant number of multiemployer plans are experiencing financial hardship. In the aggregate, these plans have unfunded vested liabilities totaling $3.85 billion. With the discretionary period coming to an end and mandatory coverage about to begin, many of these multiemployer plans that are experiencing financial hardship could terminate shortly after the first of the year, possibly forcing PBGC to assume obligations far in excess of its capacity.

H.R. 9378 simply postpones the effective date of mandatory coverage for 18 months—until July 1, 1979. It also requires PBGC to report to the Congress by July 1, 1978, with a comprehensive analysis of the problems of multiemployer plans under title IV and with recommendations for any amendments to title IV that PBGC thinks are necessary to make its insurance provisions work better for multiemployer plans. That way, Congress will have time to legislate, if necessary, before the mandatory coverage comes into effect.

Mr. President, the amendment that will be offered would change the present annual premium charged by PBGC to single employer plans from $1 per participant to $2.60 per participant.

The Pension Benefit Guaranty Corporation has requested a premium increase. PBGC has found that the present premium, which was included in ERISA when it was enacted in 1974, is inadequate. PBGC now has a $41 million deficit, which is expected to climb to $160 million in a few years' time if the present $1 premium rate is maintained.

PBGC has estimated that a premium of $2.25 would be sufficient to eliminate the present deficit and to put its single employer fund on a fully funded basis by 1987. The Human Resources Committee was willing to accept this figure, but the Finance Committee has determined that the figure of $2.60 is more appropriate.

I have discussed this with Senator BENTSEN, who chairs the Subcommittee on Private Pension Plans and Employee Fringe Benefits, and who is most knowledgeable about insurance matters, and agree that $2.60 is a more appropriate premium.

The lower figure recommended by PBGC was based on several assumptions, including future unemployment rates and investment return predictions. In addition, there is currently pending certain litigation which could affect the adequacy of the premium. In light of these uncertainties, and because public policy will be served by setting a premium figure which we believe will be adequate for a number of years to come, I have concluded that it is wiser to set a higher premium rate.

PBGC has estimated that the premium figure it sought would have a miniscule impact on plan sponsors. For example, it amounted to not more than one-half of 1 percent of total annual plan contributions and to less than one-tenth of 1 percent of an employer's total annual payroll costs. The additional $0.35 we are proposing to add will raise these figures, but only very slightly.

In return, millions of employees covered under single employer, tax-qualified persion plans can rest assured that if their plan terminates, the Pension Benefit Guaranty Corporation will have sufficient assets to make good on its guaranty.

Mr. President, the Congress is now in the process of sharply increasing the social security contribution rates. We are forced to mandate a large increase to avoid bankruptcy of that system. PBGC seeks to avoid getting into a similar situation by establishing a premium rate now that will enable it to reach a fully funded basis in a relatively short time. We can benefit from our experience with the social security system by approving the $2.60 premium today.

To summarize, this amendment will mean that the premium rate payable annually to the Pension Benefit Guaranty Corporation by plans that are not multiemployer plans for basic benefit coverage under title IV of the Employee Retirement Income Security Act of 1974 is raised to $2.60 per plan participant. The new rate will apply to plan years beginning on or after January 1, 1978, and will remain in effect until revised pursuant to the existing statutory procedure in section 4006 of ERISA. The new rate will be paid in accordance with PBGC regulations and existing ERISA provisions, where they are not inconsistent with this provision.

The Senator from Texas, I know, will sponsor the amendment to which I have referred and in which I join wholeheartedly. I yield to the Senator from Texas.

UP AMENDMENT NO. 1046

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself, Mr. WILLIAMS, and Mr. JAVITS, proposes an unprinted amendment numbered 1046.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, delete "subsection:" and insert "subsections:"

On page 3, line 2, delete "July 1, 1978."." and insert "July 1, 1978."

On page 3, line 3, insert the following:

"(e) Notwithstanding any provision of title IV of this Act to the contrary, the annual insurance premium payable to the Pension Benefit Guaranty Corporation for coverage of basic benefits guaranteed under section 4022 of this Act by plans that are not multiemployer plans shall be $2.60 for each participant in the plan. This subsection shall be effective for plan years beginning on or after January 1, 1978, and the premium prescribed by this subsection shall be deemed to be the rate imposed by title IV of this Act for nonmultiemployer plans until the rate schedule for such plans is revised pursuant to the procedure set out in section 4006 of this Act."

Mr. BENTSEN. Mr. President, as chairman of the Private Pension Subcommittee of the Senate Finance Committee, I urge the Senate to adopt H.R. 9378, which would delay for 18 months the effective date of mandatory termination insurance for multiemployer plans under the Employee Retirement Income Security Act (ERISA).

This legislation has been approved by both the Senate Finance Committee and the Senate Human Resources Committee.

ERISA established a program of private pension plan insurance—modeled after the Federal Deposit Insurance Corporation for banks—which will insure that employees will be protected in the event that their pension plan terminates before becoming fully funded. Under this program, private pension plans must pay an annual insurance premium to the Pension Benefit Guaranty Corporation (PBGC) which is located within the Labor Department. In the event that a pension plan terminates with insufficient assets to provide retirement benefits, the PBGC will guarantee pension benefits.

Mandatory termination insurance coverage under ERISA for multiemployer plans begins January 1, 1978. However, the Pension Benefit Guaranty Corporation (PBGC) has had discretionary authority since the enactment of ERISA in 1974 to insure multiemployer plans that terminate. PBGC has recommended that Congress amend ERISA to delay the effective date of mandatory multiemployer coverage but continue discretionary coverage. A multiemployer pension plan is generally a plan maintained by several employers for employees under a union agreement.

The multiemployer portion of termination insurance could face serious financial problems January 1 when mandatory coverage becomes effective. A delay in mandatory coverage of multiemployer plans would give Congress the opportunity to make appropriate statutory modifications to prevent these problems.

A recent PBGC study showed that about 2 percent of all multiemployer plans, covering about 5 percent of all participants in such plans, are experiencing extreme financial hardship, indicating a high potential for plan termination within the next 5 years. The aggregate unfunded vested liabilities of these plans in 1977 exceed $350 million.

Another 10 percent of all multiemployer plans, covering about 15 percent of all participants in such plans, are experiencing significant financial hardship which may result in plan termination, although not necessarily within 5 years. These plans currently have aggregate unfunded vested liabilities of about $3.5 billion.

In summary, approximately one-eighth of all multiemployer plans, covering one-fifth of all participants in such plans, are experiencing significant financial hardship which may result in plan termination.

The imposition of a large liability on PBGC early next year will have an adverse impact on the entire private pension system. A large liability on PBGC, with the threat of new Federal regulations or large multiemployer premiums, could increase the number of plan terminations or discourage the creation of new plans.

There are several ways to resolve this problem in the long run. However, all of these proposals require extensive analysis and hearings which can be conducted during the 18-month delay period.

If Congress delays mandatory coverage, PBGC would continue to have discretionary authority to protect multiemployer pension plan participants. A delay would not necessarily result in any lost benefits.

The Finance Committee has asked the GAO to evaluate the termination insurance program to help formulate long-term remedies. In the interim, an 18-month delay in mandatory coverage of multiemployer plans is necessary.

In addition, I urge the Senate to adopt the pending amendment to increase the insurance premium for single-employer plans from $1 to $2.60 per participant.

This modest increase is needed to reduce the deficit in the single-employer PBGC fund which will reach about $60 million by January 1, 1978. The selection of the $1 premium in 1974 was somewhat arbitrary since there was little reliable data to accurately analyze the extent of plan terminations. We have now analyzed 2 full years of actual experience under ERISA and believe an increase to $2.60 will put the single-employer termination insurance program on a sounder actuarial base. This premium increase represents a fraction of 1 percent of the costs of a pension plan. This will not be an undue burden for small plans since the typical small plan will only have to pay an additional $40 per year.

Under this amendment, the premium rate payable to the Pension Benefit Corporation by plans that are not multiemployer plans for basic benefit coverage under title IV of the Employee Retirement Income Security Act of 1974 is raised to $2.60 per plan participant from $1 per participant. The new rate shall apply to plan years beginning on or after January 1, 1978, and shall remain in effect until revised pursuant to the existing statutory procedure in section 4006 of ERISA. The new rate is to be paid in accordance with PBGC regulations and existing ERISA provisions where they are not inconsistent with this provision.

Mr. President, I urge the Senate to approve the pending bill and the amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENTSEN. I will be glad to yield.

Mr. JAVITS. Mr. President, let us emphasize that there are two measures, both essential. One is the extension of the date for mandatory insurance coverage of multiemployer plans by the Pension Benefit Guaranty Corporation. We are putting that off for 18 months. That is the basic bill which came from the House.

The other measure has been explained by Senator BENTSEN. It is necessary that the single employer insurance fund be buttressed by increased premium rate. There are some 75,000 to 80,000 plans affected involving 23 million employees. There are billions of dollars of assets in these plans.

The amount of additional premium,

which will have an enormously salutory effect, is not large at all, even though it goes up from $1 to $2.60.

The absolute amount is not large considering what is involved.

As one of the authors of ERISA, just as my colleagues are, I strongly commend this measure to the Senate as being absolutely essential.

I want to thank the leadership for allowing us to bring it up at this point.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 9378) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I move to indefinitely postpone S. 2125 and House Concurrent Resolution 369.

The PRESIDING OFFICER. Without objection, the motion will be in order.

Without objection, the motion is agreed to.

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## VA PHYSICIAN AND DENTIST PAY COMPARABILITY ACT AMENDMENT

Mr. CRANSTON. Mr. President, I am going to make a motion now that we proceed to a different matter that has been cleared on both sides. The Senator from Maryland (Mr. MATHIAS) has cleared this on the Republican side. It has been cleared on this side.

I move that we proceed for not more than 25 minutes to the consideration of matters relating to H.R. 8175.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, on September 9, the Senate passed H.R. 5027, title 2 of which proposed to extend the VA doctors' special pay authority and to make other related amendments regarding title 38 employees. On September 12, the other body passed H.R. 8175, a bill extending that authority, subject to a uniform cutoff date for all special pay agreements entered into by the VA after September 30, 1977.

Since then, Mr. President, members of the Committees on Veterans' Affairs in the two bodies have met informally to discuss the differences between our approaches and have reached agreement on a common approach, which I shall propose be inserted as a substitute amendment on H.R. 8175.

Proceedings on this matter have been cleared on all sides, Mr. President, and I have assurances it will be rapidly accepted by the other body if accepted in this form by this body.

We can rapidly proceed with and dispose of this matter.

I ask unanimous consent that the Committee on Veterans' Affairs be discharged from consideration of H.R. 8175 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, I did not hear the explanation of the bill.

Mr. CRANSTON. It is a bill relating to VA doctors' special pay authority.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 8175) to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, I now shall make a motion in regard to when we shall vote on this matter.

We presently have scheduled a vote on the Danforth amendment to the social security bill at 9:55 tomorrow morning. I ask unanimous consent that the rollcall on either a tabling motion or on the amendment itself to be offered by Senator MATHIAS occur without further debate immediately following disposition of the Danforth amendment tomorrow morning, on which action starts at 9:55 a.m.

Mr. JAVITS. Reserving the right to object, what is this that we have no debate on?

Mr. CRANSTON. I ask the Senator from Maryland to explain to the Senator from New York what his amendment is.

Mr. MATHIAS. Mr. President, the bill pending before the Senate is to provide for special pay for physicians on the staff of the Veterans' Administration hospitals. It overlooks, however, the fact that we have some 1,500 physicians who are employed in other agencies of Government who perform essentially the same services as physicians in the Veterans' Administration, who deserve the same consideration, and who, I think, should receive the same kind of professional incentive that we are giving, very properly, to the Veterans' Administration physicians.

Mr. JAVITS. If I may, will an explanation of the details be in the RECORD tonight?

Mr. MATHIAS. An explanation of the amendment which will provide for this equity for other physicians will be in the RECORD. I do not feel that these physicians should be in the position where it is not what they know that counts, it is who they know; it is not what they do but the office in which they happen to be employed.

The amendment is really to provide equity for other doctors who perform essentially comparable services but who would be getting pay which would not in any way be comparable if they are omitted from the special pay provisions of the pending bill.

Mr. JAVITS. That is going to go on the pending bill, the bill before us?

Mr. MATHIAS. It would be added as an amendment, simply to give these doctors, who are scattered around through a variety of agencies in Government in small numbers—in fact, that is their problem; they are in such small numbers in any one agency that they have no one who can speak for them. Taken together, they are a significant body of professional talent that deserves recognition.

Mr. JAVITS. But the detail will be in the RECORD.

Mr. MATHIAS. The detail will be in the RECORD.

Mr. JAVITS. So we can vote for it in an informed way.

Mr. MATHIAS. Yes.

Mr. BELLMON. Will the Senator yield?

Mr. MATHIAS. Yes, I yield.

Mr. BELLMON. Does the legislation or the Senator's amendment cover doctors in military service as well?

Mr. MATHIAS. I suggest that the Senator from California deal with that question. My amendment will deal not with people in the military, but with people in various other agencies of Government, small numbers in each agency.

Mr. CRANSTON. What was the question of the Senator from Oklahoma?

Mr. BELLMON. The question is, Does the legislation, assuming it is amended by the Senator from Maryland, cover doctors in the military services as well as in other governmental organizations?

Mr. CRANSTON. Only the VA. It is all cleared on both sides. There is no problem. The amendment of the Senator from Maryland is on an unrelated, ungermane matter.

Mr. BELLMON. Will this matter be open to further amendment in case the Senator from Oklahoma wishes to offer an amendment tomorrow to include military doctors?

Mr. CRANSTON. Military doctors are not involved in this. We really should not get them in the bill. That is a separate question. They are covered separately. They have already been extended.

Mr. BELLMON. That is what I was curious about.

Mr. CRANSTON. Mr. President, I revise my unanimous-consent request to ask that the vote on a tabling motion or the amendment occur at 10:30 a.m., provided the Danforth matter has been disposed of at that time or, if not, immediately after the disposition of the Danforth matter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1047

(Purpose: To reconcile differences between the provisions of H.R. 8175 as passed by the House on September 12, 1977, and the provisions of title II of H.R. 5027 as passed by the Senate on September 9, 1977, and amend the title accordingly.)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1047.

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Veterans' Administration Physician and Dentist Pay Comparability Amendments of 1977".

SEC. 2. Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 669), as amended, is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

SEC. 3. (a) Section 4118 of title 38, United States Code, is amended by—

(1) amending subsection (a)(1) by—

(A) striking out "he" and inserting in lieu thereof "the Administrator";

(B) striking out "of," after "duration" and inserting in lieu thereof a comma and "of"; and

(C) striking out "number of years" after "specified" and inserting in lieu thereof "period";

(2) striking out in subsection (a)(3) "pursuant to" and inserting in lieu thereof "in accordance with", and inserting at the end thereof the following new sentence: "Not later than one year after making any such recruitment and retention determination and each year thereafter, the Chief Medical Director shall make a redetermination in accordance with such regulations, and, in the event any such determination was made more than one year prior to the date of enactment of this sentence, the Chief Medical Director shall make such redetermination not later than ninety days after such enactment date.";

(3) inserting at the end of subsection (e)(1) the following new sentences: "Any physician or dentist who entered into an agreement under this section and has not failed to refund any amount which such physician or dentist became obligated to refund under any such agreement shall be eligible to enter into a subsequent agreement under this section. Notwithstanding the provisions of the preceding two sentences, no agreement entered into under this section shall extend beyond September 30, 1981, and any agreement entered into under this section after September 30, 1980, may be for a period of less than one year if the expiration date thereof is September 30, 1981."; and

(4) amending subsection (e)(2)(A) by—

(A) inserting a comma and "or such lesser period of service as provided for in the final sentence of paragraph (1) of this subsection," after "service"; and

(B) striking out "the Chief Medical Director, pursuant to the regulations prescribed under this section, determines" and inserting in lieu thereof "the Chief Medical Director determines, in accordance with regulations prescribed under subsection (a) of this section,".

(b) Prior to the execution after April 30, 1978, of any written agreement entered into with a physician or dentist under section 4118 of title 38, United States Code (as amended by subsection (a) of this section), (1) the Chief Medical Director of the Veterans' Administration shall reevaluate, in view of the executive level pay increase made pursuant to section 225 of the Federal Salary Act of 1967, effective February 27, 1977, with respect to the Veterans' Administration, the need for special-pay agreements, as authorized in such section 4118, in order to recruit and retain highly qualified physicians or dentists in each category of positions in the Department of Medicine and Surgery, and report to Congress not later than April 30, 1978, on the results of sucn reevaluation with respect to each such category; and (2) notwithstanding such section 4118, the Administrator of Veterans' Affairs, upon the recommendation of the Chief Medical Director and based upon such reevaluations, may promulgate a regulation reducing the amount of primary special pay for any such category to the extent the Administrator finds such primary special pay is not necessary to recruit and retain highly qualified physicians or dentists in such category. If a determination is made to reduce the amount of such primary special pay for any such category, the regulation promulgating the reduction shall be published in the Federal Register not less than 30 days prior to its effective date.

(c) The Administrator, not later than 30 days after the date of enactment of this Act, may enter into, under section 4118 of title 38, United States Code (as amended by subsection (a) of this section), with any otherwise eligible physician or dentist who was appointed to a position in the Department of Medicine and Surgery in the Veterans' Administration during the period beginning on October 1, 1977, and ending on the date of enactment of this Act, a special-pay agreement providing for the payment of special pay to such physician or dentist retroactive to the date such physician or dentist was appointed to such position.

SEC. 4. (a)(1) Section 4105 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law, no person may be appointed under section 4104(1) of this title after the effective date of this subsection to serve in the Department of Medicine and Surgery in any direct patient-care capacity unless the Chief Medical Director determines, in accordance with regulations which the Administrator shall prescribe, that such person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such person to carry out such person's health-care responsibilities satisfactorily.".

(2) Section 4114 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(f) No person may be appointed under this section after the effective date of this subsection to an occupational category described in section 4104(1) of this title or in subsection (b) of this section unless such person meets the requirements established in section 4105(c) of this title and regulations prescribed thereuder.".

(3) Notwithstanding any other provision of law, with respect to persons other than those described in subsection (c) of section 4105 and subsection (f) of section 4114 of title 38, United States Code (as added by paragraphs (1) and (2) of this subsection), who are appointed after the date of enactment of this Act in the Department of Medicine and Surgery in the Veterans' Administration in any direct patient-care capacity, and with respect to persons described in such subsections who are appointed after such enactment date and prior to January 1, 1978, the Administrator of Veterans' Affairs, upon the recommendation of the Chief Medical Director, shall take appropriate steps to provide reasonable assurance that such persons possess such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health care personnel as will enable such persons to carry out their health-care responsibilities satisfactorily.

(4) The amendments made by paragraphs (1) and (2) of this subsection shall be effective on January 1, 1978.

(b) Not later than April 1, 1978, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report (1) describing activities undertaken and the persons affected in order to carry out subsection (c) of section 4105 and subsection (f) of section 4114 of title 38, United States Code (as added by paragraphs (1) and (2) of subsection (a) of this section), and subsections (a)(3) and (c) of this section, and (2) providing—

(A) a description of the extent to which there are persons employed by the Veterans' Administration, on or prior to the date of enactment of this Act, in any direct patient-care capacity in the Department of Medicine and Surgery, who do not possess such basic proficiency in spoken and written English as produces the degree of communication with patients and other health-care personnel as is necessary to enable such persons to carry out their health-care responsibilities satisfactorily;

(B) data describing the characteristics and categories of positions of any such persons; and

(C) if, in the opinion of the Administrator, the description and data being provided pursuant to subclauses (A) and (B) of clause (2) of this subsection indicate that there is a problem with respect to the satisfactory performance of such health-care responsibilities arising from such lack of proficiency, a plan to promote the achievement of such proficiency as will enable the persons involved to carry out their health-care responsibilities satisfactorily as well as to deal with any need which the Administrator believes will exist to promote such proficiency on the part of persons appointed after such enactment date who the Administrator has reason to believe do not, in fact, possess such proficiency, including (i) the cost of implementing such plan in each of the succeeding five fiscal years, and (ii) the time periods in which such proficiency on the part of such persons (broken down by appropriate categories and characteristics) can be expected to be achieved.

(c) Section 5001 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(h) When the Administrator determines, in accordance with regulations which the Administrator shall prescribe, that a Veterans' Administration facility serves a substantial number of veterans with limited English-speaking ability, the Administrator shall establish and implement procedures, upon the recommendation of the Chief Medical Director, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Veterans' Administration staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.".

SEC. 5. (a)(1) The salary schedule under the heading "SECTION 4103 SCHEDULE" in section 4107 of title 38, United States Code, is amended by striking out "$36,338 minimum to $46,026 maximum" after "Director of Podiatric Service," and inserting in lieu thereof "$39,629 minimum to $50,197 maximum.".

(2) The salary schedule under the heading "CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE" in section 4107 of title 38, United States Code, is amended to read as follows:

"Chief grade, $33,789 minimum to $43,923 maximum.

"Senior grade, $28,725 minimum to $37,347 maximum.

"Intermediate grade, $24,308 minimum to $31,598 maximum.

"Full grade, $20,442 minimum to $26,571 maximum.

"Associate grade, $17,056 minimum to $22,177 maximum.".

(3) The amendments made by paragraphs (1) and (2) of this subsection shall be effective retroactive to the period beginning on October 21, 1976; and ending on October 8,

1977. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall establish retroactively for such period intermediate rates of basic pay between the minimum and maximum pay ranges prescribed in the salary schedule under the heading "SECTION 4103 SCHEDULE" for the Director of Podiatric Service and in the "CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE" in section 4107 of title 38, United States Code.

(b) Notwithstanding any other provision of law, each person employed in the Department of Medicine and Surgery in the Veterans' Administration as a podiatrist or optometrist shall be converted from employment under part III of title 5, United States Code, to full-time employment under section 4104(1), or temporary full-time employment or part-time employment under section 4114(a)(1)(A), of title 38, United States Code, and each such conversion (including application of the applicable rates of basic pay provided for in the amendments made by subsection (a) of this section) shall be effective retroactive to October 21, 1976, or the most recent date of appointment in the Department of Medicine and Surgery of the employee concerned under such part III, whichever is the later.

Amend the title so as to read: "An Act to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, in order to extend the authority to enter into special-pay agreements with physicians and dentists; to amend title 38 of the United States Code to modify certain provisions relating to special-pay agreements; and for other purposes.".

Mr. CRANSTON. Mr. President, I ask unanimous consent that the following staff be afforded the privilege of the floor during consideration of H.R. 8175, VA special day. Jon Steinberg, Ellen Miyasato, Ed Scott, Garner Shriver, and Gary Crawford.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. MATHIAS. I ask unanimous consent that Mr. Joseph diGenova of my staff may have the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. MATHIAS. Mr. President, I shall send an amendment to the desk which will amend the amendment just offered by the Senator from California. Before sending it, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

MR. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RATES OF DISABILITY AND DEATH PENSION

Mr. CRANSTON. Mr. President, on a privileged matter, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7345. This has been cleared on all sides.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House recede from its amendment to the amendment of the Senate to the bill (H.R. 7345) entitled "An Act to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes", and agree to the amendment of the Senate to the aforesaid bill with the following

AMENDMENTS

(1) Page 3 of the Senate engrossed amendment, in the table following line 4, strike out [2,700] both places it appears, and insert: "2,800".

(2) Page 5 of the Senate engrossed amendment, in the table following line 6, strike out [2,600] under the heading "But not more than—", and insert: "3,700", and strike out the last line in such table.

(3) Page 6 of the Senate engrossed amendment, in the table following line 4, strike out [3,900] under the heading "But not more than—", and insert: "5,070", and strike out the last line in such table.

Mr. CRANSTON. Mr. President, I move that the Senate agree to the amendments of the House to the Senate amendment to the House bill.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

## ORDER FOR RECESS TO 8:55 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:55 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MEDAL OF HONOR—S. RES. 322

Mr. CRANSTON. Mr. President, I report an original resolution from the Committee on Veterans' Affairs and ask unanimous consent for its immediate consideration. It is cleared on all sides.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 322) relating to the National Convention of the Congressional Medal of Honor Society of the United States of America to be held in San Jose, California.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution is as follows:

Whereas the Congressional Medal of Honor Society of the United States of America will hold its national convention in San Jose, California, November 9 through November 13, 1977, to commemorate the 116th anniversary of the establishment of the Medal of Honor by the Congress and President Abraham Lincoln; and

Whereas the Congressional Medal of Honor Society of the United States of America, whose membership is composed solely of recipients of the Medal of Honor, will also observe, at such convention, the 19th anniversary of its incorporation and establishment by Act of Congress dated August 14, 1958 (72 Stat. 597); and

Whereas it will be particularly fitting that the membership of such society will be meeting on November 11, a day for honoring America's military veterans; and

Whereas recipients of the Medal of Honor deserve public recognition and tribute for their valor, service to country, and unique contributions to the history of this Nation: Now, therefore, be it

*Resolved*, That the Senate expresses its best wishes to the Congressional Medal of Honor Society of the United States of America on the occasion of its national convention to be held in San Jose, California, November 9 through November 13, 1977, and expresses renewed appreciation and tribute to the individual members of the organization and to all recipients of the Medal of Honor, living and dead, for their bravery in battle and high service to country.

SEC. 2. The Secretary of the Senate shall transmit a copy of this Resolution to the Congressional Medal of Honor Society of the United States of America.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Without objection, the Senate will proceed to the immediate consideration of the resolution.

Mr. CRANSTON. Mr. President, the resolution that I report from the Senate Committee on Veterans' Affairs today is cosponsored by all members of that committee, Senators TALMADGE, RANDOLPH, STONE, DURKIN, MATSUNAGA, STAFFORD, THURMOND, and HANSEN, and would honor especially the 286 living holders of our Nation's highest award for valor who are meeting this month as members of the Congressional Medal of Honor Society of the United States of America in San Jose, Calif., beginning on November 9. Specifically, the resolution resolves that:

"The Senate expresses its best wishes to the Congressional Medal of Honor Society of the United States of America on the occasion of its National Convention to be held in San Jose, California, November 9 through November 13, 1977, and expresses renewed appreciation and tribute to the individual members of that organization and to all recipients of the Medal of Honor living and dead, for their bravery in battle and high service to country."

Mr. President, the Medal of Honor is the highest award for bravery that can be given any individual in the United States. Given by the President in the name of the Congress it recognizes that the individual to whom it is awarded has performed a deed so valorous at the risk of his own life that it is the kind of deed that if he had not done it, he would not have been subject to justifiable criticism. It was established 116 years ago and is the first military decoration formally authorized by the American Government as a badge of valor. The history of this medal, the deeds for which it has been awarded, and the men who have earned it are of the greatest concern to the Nation they have served. All war is ugly and tragic, yet there is no question that many individuals who are called to battle display outstanding courage and valor and willingness to make sacrifices. The most supreme acts of heroism are recognized with the Congressional Medal of Honor.

Mr. President, I ask that the resolution be supported and urge that it pass.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The preamble was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the resolution be printed as passed by the Senate bearing the names of all cosponsors and that in accordance with section 2 of the resolution a copy of it be transmitted to the Congressional Medal of Honor Society of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered .

The original cosponors are:

Mr. CRANSTON, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. STAFFORD, Mr. THURMOND, and Mr. HANSEN.

Mr. CRANSTON. Mr. President, I ask unanimous consent that immediately after the disposition of the Mathias amendment tomorrow, in accordance with the previous order, it then be in order to vote for passage of H.R. 8175.

The PRESIDING OFFICER. Does the Senator mean complete action on the bill?

Mr. CRANSTON. Yes. At that time, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. That would be without debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, in order to show the cosponsors on the Medal of Honor resolution just adopted, I ask unanimous consent that in order to achieve that purpose the resolution be regarded as submitted today, bearing the names of the cosponsors introduced by myself with them, and be treated as if it was immediately referred to and reported back by the Veterans' Affairs Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I thank the Chair.

## ORDER FOR VOTE ON DANFORTH AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, it is, of course, conceivable that the motion to table the Danforth amendment tomorrow could fail. I ask unanimous consent in that eventuality the vote on the amendment by Mr. DANFORTH occur immediately after the motion to table, if the motion to table fails, without intervening motion, debate, or amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would modify that request to delete "or amendment."

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered?

Mr. ROBERT C. BYRD. But without intervening motion or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Is there any further business?

Mr. MATHIAS. Mr. President, we are just waiting to complete action on the amendment. I regret the delay.

Mr. ROBERT C. BYRD. No problem.

Mr. MATHIAS. The courier must be stuck in the elevator.

## FOLGER SHAKESPEARE LIBRARY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9836.

The PRESIDING OFFICER laid before the Senate H.R. 9836, an act to authorize the Architect of the Capitol to furnish chilled water to the Folger Shakespeare Library, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time and passed.

## ORDER THAT CERTAIN ACTION ON SENATE JOINT RESOLUTION 82 BE VACATED AND THAT IT BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate action in passing Senate Joint Resolution 82, the Alaska pipeline resolution, yesterday be vacated and that that measure be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PURCHASES BY FEDERAL RESERVE BANKS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be discharged from further consideration of House Joint Resolution 611 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 611) to extend the authority of the Federal Reserve banks to buy and sell certain obligations.

There being no objection, the Senate proceeded to consider the joint resolution.

House Joint Resolution 611 would extend through April 30, 1978, the authority of the Federal Reserve banks to purchase U.S. Government obligations directly from the Treasury up to the amount of $5 billion. The authority has been in existence since 1942 and has been extended on about 20 previous occasions.

The purpose of this draw authority is to provide a backstop for the Treasury's cash management operations. It insures that the Treasury will be able to raise money quickly in emergency situations or in order to avoid disruption of the financial markets. I understand that the authority is not used very frequently but that the Treasury Department considers it a key element in its financial operations.

Owing to developments largely of a technical nature, this Treasury draw authority expired on September 30. House Joint Resolution 611, which passed the House on Monday, would provide a limited extension of the authority through April 30, 1978.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## EXECUTIVE PROTECTIVE SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 8992.

The PRESIDING OFFICER laid before the Senate H.R. 8992, an act to amend title 3 of the United States Code to change the name of the Executive Protective Service.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## VA PHYSICIAN AND DENTIST PAY COMPARABILITY ACT AMENDMENT

The Senate continued with the consideration of the bill (H.R. 8175).

UP AMENDMENT NO. 1048

Mr. MATHIAS. Mr. President, I send to the desk an amendment on H.R. 8175.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1048 to the amendment of the Senator from California (Mr. CRANSTON) numbered 1047.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment by the Senator from California insert:

SEC. 2. (a) Subchapter IV of chapter 59 of title 5, United States Code, relating to allowances, is amended by adding at the end thereof the following new section:

"§ 5948. Physicians comparability allowances.

"(a) A Government physician, in addition to pay otherwise due him, is entitled to—

"(1) a professional allowance—

"(A) at a per annum rate of $1,200 if he has served as a Government physician for twenty-four months or less, or

"(B) at a per annum rate of $4,200 a year if he has served as a Government physician for more than twenty-four months, plus

"(2) an allowance under any service agreement made pursuant to subsection (b) of this section.

"(b)(1) Notwithstanding any other provision of law, in order to recruit and retain highly qualified Government physicians in an executive agency, the head of such agency, subject to the provisions of this section and regulations which the Civil Service Commission may prescribe, may enter into a service agreement with a Government physician which provides (A) for such physician to complete a specified number of years of service in such agency in return for (B) an allowance in an amount not more than $5,800 per annum upon the execution, and for the duration of, such agreement.

"(2) An allowance may not be paid pursuant to this subsection to any physician who—

"(A) is employed on less than a half-time or intermittent basis,

"(B) occupies an internship or residency training position, or

"(C) is a reemployed annuitant.

"(3) The head of each Executive agency, pursuant to such regulations, may determine categories of positions applicable to physicians in such agency as to which there is no significant recruitment and retention problem. Physicians serving in such positions shall not be eligible for an allowance pursuant to this subsection.

"(4) Any agreement entered into by a physician under this subsection shall be with respect to a period of one year of service in the Executive agency involved unless the physician requests an agreement for a longer period of service not to exceed four years.

"(5) Any such agreement shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of such agency, pursuant to the regulations prescribed under this subsection by the Civil Service Commission, determines that such failure is necessitated by circumstances beyond the control of the physician.

"(6) Any such agreement shall specify the terms under which the head of the executive agency and the physician may elect to terminate such agreement.

"(c) For the purpose of this section—

"(1) 'Government physician' means any individual employed as a physician who is paid under—

"(A) section 5332 of this title, relating to the General Schedule;

"(B) subchapter IV of chapter 14 of title 22, relating to the Foreign Service; or

"(C) pay scales or rate systems established for physicians employed by—

"(i) the Postal Service or the Postal Rate Commission;

"(ii) the Canal Zone Government or the Panama Canal Company;

"(iii) the Energy Research and Development Administration; or

"(iv) the Tennessee Valley Authority; and

"(2) 'executive agency' includes the Postal Service and Postal Rate Commission.

"(d)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits related to basic pay.

"(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as his basic pay is paid.".

(b) The analysis for chapter 59 of such title is amended by adding at the end thereof the following:

"5948. Physicians comparability allowances."

SEC. . The amendments made by this Act shall apply with respect to pay periods beginning more than thirty days after the enactment of this Act.

SEC. . The amendments made by this Act shall, unless otherwise extended by Congress, expire on October 1, 1978.

Mr. MATHIAS. Mr. President, attracting and retaining the best quality physicians in the U.S. civil service system is becoming increasingly difficult because physicians' salaries in the private sector are more lucrative than in the civil service. The executive pay scale limit has placed an arbitrarily low ceiling on salaries for doctors and dentists.

To remedy this situation, a variable incentive pay system was authorized by the Congress which provides bonus pay for most of the 39,400 physicians and dentists in the Federal Government. However, approximately 1,950 physicians and dentists, 7 percent, were not covered by the variable incentive pay system, VIP. My bill is addressed to this group and simply provides for the variable incentive pay so that they will be compensated at the same level as other physicians in the Federal service.

At present, as my colleagues know, the top salary any general schedule civil servant can receive is $39,600. Without the ceiling, the GS pay schedule calls for rates up to $54,410 per year. When the variable incentive pay is added to the GS ceiling salary, the top salary can reach $53,100 for federally employed physicians.

Thus, for this small group of doctors and dentists outside the VIP, there is a difference in their salary of up to $13,500 compared with their federally employed counterparts.

These approximately 1,950 physicians who do not receive incentive pay are employed by the following agencies:

LIST OF AGENCIES

Foreign Service.
Federal Aviation Administration.
National Aeronautics and Space Administration.
U.S. Postal Service.
Commerce Department.
Interior Department.
Central Intelligence Agency.
Department of Defense.
Food and Drug Administration.
St. Elizabeth's Hospital.
Library of Congress.
D.C. Health Services.
Public Health Service.
Labor Department.
National Security Agency.
Social Security Administration.
National Science Foundation.
National Institutes of Health.
National Institute of Occupational Safety and Health.
Drug Enforcement Administration.
Bureau of Engraving and Printing.
National Bureau of Standards.
Energy Research and Development Administration.
Tennessee Valley Administration.
Canal Zone.

The physicians employed are in positions ranging from staff physician to medical director and their tenure ranges from newly employeds to 20 years of service.

Without the variable incentive pay system, the agencies I have mentioned will continue to have difficulty retaining, and particularly attracting, qualified medical personnel.

The obvious inequity of this situation was pointed up in an August 31, 1976, GAO report, which I quote:

> We found cases where differences between systems caused some employees to transfer between systems in an agency. In one PHS installation we visited, seven GS physicians transferred to the commissioned corps during fiscal year 1975 in order to receive VIP. Other GS physicians, who reportedly would have switched, had previously switched from the commissioned corps to the GS prior to the implementation of VIP because the benefits of the GS system were better at that time.
>
> We found numerous instances where physicians who were receiving VIP worked with physicians not receiving VIP because of ineligibility. This has caused bitterness among physicians and resulted in lawsuits being filed against the Federal Government by those physicians not receiving VIP.

The longer term findings and recommendations of the GAO report point out the need for one rather than three pay systems for federally employed physicians. It is my understanding that the Office of Management and Budget has agreed to submit such a comprehensive pay and benefits plan to the Congress this month. Until then, however, 7 percent of federally employed physicians continue to be treated unequally with regard to pay.

I ask for speedy consideration of this amendment.

Mr. CRANSTON. Mr. President, I oppose the amendment proposed by the Senator from Maryland and will move that it be tabled.

Mr. President, this amendment is not germane to the provisions of this bill and it comes at a time when it would, if adopted by the Senate, impede the passage of the bill by the Congress and thus severely jeopardize the Veterans' Administration's ability to recruit and retain the highly qualified physicians and dentists it needs to provide care and treatment to our disabled veterans. The VA's special-pay authority expired on October 1 of this year and it is, therefore, of the utmost importance that H.R. 8175 be enacted as swiftly as possible.

Mr. President, I do not disagree with the basic desire of the Senator from Maryland to try to provide greater uniformity in the pay of physicians employed by the Federal Government. However, even assuming that the other body would accept his amendment—which I am sure it would not—we would not achieve the carefully developed uniform system of pay which seems to be desirable by simply passing this amendment.

The General Accounting Office and the Office of Management and Budget each recently completed in-depth reports, mandated by law, on these issues. Both reports concluded that uniformity is de-

sirable and that a uniform system should be developed, at least for the civilian sector. The same conclusion was reached by the January 1976 report of a joint agency work group, comprised of the Department of Defense, the Department of Health, Education, and Welfare, the Civil Service, and the VA.

However, the establishment of a permanent, uniform system of compensation will require extensive interagency cooperation and goes beyond the issue of pay for VA physicians and dentists alone. That effort will require the cooperation of the Civil Service Commission, the agencies employing physicians under the civil service system, the Department of Defense, the Public Health Service, and the Veterans' Administration. Such an undertaking deserves considerable study and reflection; and the administration is currently working on proposed legislation that would offer a permanent resolution of these problems. In fact, the Director of the Office of Management and Budget, in a May 2, 1977, letter to the chairman of the House Committee on Veterans' Affairs, stated that the administration will, in the President's fiscal year 1979 budget, submit legislative proposals based on its review of OMB's and the Comptroller General's report. I honestly hope that we will be able to consider a comprehensive proposal, with the cooperation of the other Senate committees involved, for action in this Congress. I assure my colleagues of my very real interest in this matter. Obviously, the amount of interagency and intercommittee cooperation needed will be great, and I hope I can count on the cooperation of all Senators in giving full and fair consideration to the administration's proposal.

Meanwhile, H.R. 8175 is only a stopgap measure necessitated by the present absence of a permanent solution—just as was the recently enacted Public Law 95-114, extending for 1 year, until September 30, 1978, the authority of the armed services and the Public Health Service's commissioned corps to provide variable incentive pay.

Therefore, Mr. President, in the interests both of quality of health care for our Nation's veterans and of the development of a highly desirable, uniform pay system, I strongly urge that the amendment be tabled, and I so move.

## APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965 AMENDMENTS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8777, which is at the desk, and that it be considered as having been read twice.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8777) to amend the Appalachian Regional Development Act of 1965 to permit an extension of the period of assistance for child development programs while a study is conducted on methods of phasing out Federal assistance to these programs.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its consideration.

Mr. BAKER. Mr. President, reserving the right to object, I do not know at what point that got in.

The PRESIDING OFFICER. The Chair heard the Senator's reservation of the right to object at the appropriate time.

Mr. BAKER. Prior to the first and second reading.

The PRESIDING OFFICER. That is right.

Mr. BAKER. I have no objection to proceeding with the consideration of this measure.

Mr. President, for the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

## FEDERAL CROP INSURANCE ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, this matter has been cleared on the other side.

I ask unanimous consent that H.R. 9704 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 9704.

The PRESIDING OFFICER laid before the Senate a message from the House on H.R. 9704, an act to amend the Federal Crop Insurance Act, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

There being no objection, the Senate proceeded to consider the bill.

Mr. TALMADGE. Mr. President, H.R. 9704 would, first, amend the Federal Crop Insurance Act to increase the authorized capital stock of the Federal Crop Insurance Corporation from $150 million to $200 million; and second, require that a study of alternatives to the current Federal crop insurance system be undertaken immediately.

I introduced S. 2230, a related bill, on October 20, 1977, at the request of the administration. S. 2230 is identical to section 1 of the House bill in that it would authorize an increase in the capital stock of the Corporation from $150 million to $200 million. The Committee on Agriculture, Nutrition, and Forestry favorably reported S. 2230 to the Senate, without amendment, on October 27, 1977.

The Budget Committee, on November 2, 1977, favorably reported Senate Resolution 308, a resolution to waive section 402(a) of the Budget Act with respect to S. 2230; and the Senate has agreed to the resolution. Thus, it is in order now—from the standpoint of compliance with the Budget Act—for the Senate to consider H.R. 9704, the companion House bill to S. 2230.

Immediate action on H.R. 9704 and additional appropriations for the subscription of the stock are necessary so that the Corporation will have funds to pay the indemnity claims of farmers. The Department of Agriculture currently estimates that, as it stands now, the Corporation will run out of funds to pay indemnity claims by December 1 of this year.

To understand why the Corporation has nearly exhausted its capital, necessitating this infusion of new funds into the Federal crop insurance program to cover claims—especially since Congress just 5 months ago approved a similar administration bill to authorize the increase of capital stock from $100 million to $150 million—it is necessary to briefly review the events of the past 2 years.

During the period 1948 through 1975, the Corporation operated at a 0.92 loss ratio. This means that farmers had paid over $70 million in premiums in excess of the amount that they had returned to them in the form of indemnities. In addition, at the beginning of the 1976 crop year $90 million of the $100 million in authorized capital stock had been subscribed.

However, because of the drain on capital caused by program administration and operating costs over the last 20 years, the Corporation had only $40 million remaining in net capital at the beginning of the 1976 crop year.

During 1976, insured farmers suffered near catastrophic losses in several areas of the country. As a result, the largest dollar amount of indemnities in the history of the Corporation—over $130 million—was paid for 1976 crop losses. These payments exceeded collected premiums by close to $50 million.

It was necessary to increase the capital stock authorization to cover these losses. Public Law 95-47 was enacted on June 16, 1977, for this purpose. An additional $50 million in capital stock was authorized.

With all the authorized $150 million in capital stock subscribed and all the 1976 claims paid, the Corporation's net capital position at the beginning of the 1977 crop year was $63 million.

For a second straight year, there have been disastrous weather conditions in the major agricultural regions of the United States. The drought in the Midwest has persisted in several areas and has spread to the southeast.

I can personally attest, based on my own inspection of farms in my home State, Georgia, to the tremendous devastation caused to crops by the severe

drought in the southeast this spring and early summer.

Due to widespread crop losses, the Corporation is going to get hit very hard with claims again this year. The Department of Agriculture's current estimate is that indemnity payments for 1977 crop losses will exceed premiums by close to $70 million.

So, again, the Corporation's net capital will soon be wiped out in paying these claims, and some farmers will fail to receive timely the indemnity payments to which they are entitled.

Mr. President, it would be an injustice to deprive hard pressed farmers the indemnities rightfully due them under the insurance contracts. After all, they have paid the entire cost of the premium without Government assistance or subsidies. And, in many cases in which the disastrous weather has wiped out a farmer's entire crop and annual investment, these insurance indemnities could well mean the difference as to whether a farmer will be able to survive to plant a crop in 1978.

In addition, there are some insured 1977 crops, such as citrus, that have not yet been harvested. Unless action is taken to rebuild a capital reserve, the Corporation will simply not have the money available to cover losses if bad weather strikes these crops.

It is clear that Congress must thoroughly review the Federal crop insurance program. Changes in the law may well be necessary to avert future crisis like this. The Committee on Agriculture, Nutrition, and Forestry has already begun this task. We have started a wide-sweeping legislative review of the Federal crop insurance program and other Federal disaster assistance programs for farmers and will hold hearings next year as soon as the Senate reconvenes. The study mandated by H.R. 9704 will further our work in this area.

With respect to the current situation, however, I believe I have made clear the need for immediate action by Congress to authorize the issuance of an additional $50 million in capital stock by the Corporation. The additional capital is essental to enable the Corporation to meet its legal obligations to insured farmers who have suffered crop losses due to natural disasters during the 1977 crop year and to reestablish a capital reserve sufficient for continuation of operations in a business like manner, and I, therefore, urge the passage of H.R. 9704 by the Senate.

The bill was ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## ORDER INDEFINITELY POSTPONING CONSIDERATION OF S. 2230

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to indefinitely postpone S. 2230.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965 AMENDMENTS

The Senate continued with the consideration of H.R. 8777.

Mr. ALLEN. Mr. President, I ask unanimous consent that H.R. 8777 be brought up and that it be regarded as having been read twice and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object at this time, I state to my colleague from Alabama that I have tried my best to obtain clearances on our side to proceed and I have not yet been able to get all of the clearances, but I suggest we go ahead and take the bill through third reading and passage. I would do this on condition that there not be a motion to reconsider the vote by which the measure was adopted nor a tabling motion.

Mr. ALLEN. I have no objection at all, but I recall to the distinguished Senator's memory that I did clear the matter with him and he originally thought it was ready to go.

Mr. BAKER. Mr. President, the Senator is entirely correct, and I express an embarrassment for noting on my calendar that we had not completed our routine clearances, so that is the reason I wish to take this precaution at this time.

Mr. ALLEN. I have no objection to handling it in that manner.

Mr. BAKER. I thank the Senator from Alabama.

I do not object to proceeding to the measure at this time.

The PRESIDING OFFICER. Without objection, the bill is considered as having been read twice.

Mr. ALLEN. Mr. President, it is imperative this bill, H.R. 8777, be passed by the Senate. Previously, I had joined my distinguished colleague, Senator HOWARD METZENBAUM of Ohio, in introducing similar legislation, S. 1984.

Continued support of Appalachian Regional Commission funding is critical at this juncture. A cutoff of these funds would in the case of Alabama result in the closing of 26 day care centers or a reduction of services providing for welfare service recipients only. In all probability working mothers of children who currently receive ARC services would be unable to secure adequate low cost child care, thus forcing them to quit work and further reduce family income.

In 1972, Alabama initiated a comprehensive ARC child development program in 22 of the 35 Appalachian counties. Five public agencies served as grantees for ARC funds and contractors for title IV–A (title XX) Social Security Act of 1967, as amended.

The initial program consisted of a system of 53 child development centers serving approximately 2,500 pre-school age children. ARC funds were combined with title IV–A funds (title XX) Social Security Act for maximum utilization of the ARC investment. This joint funding provided the financial assistance for the creation of a much needed service in Appalachian Alabama, particularly in the rural areas.

After 5 years of operation, it is felt that this system has made a valuable contribution to the children and families in Appalachian Alabama. Despite restrictive regulations and steadily increasing costs, comprehensive services have been maintained including health and nutrition, education and social services. This has been accomplished by utilizing community, county, and State resources to the fullest. The health and nutrition components provide immediate and visible results. The children in the child development centers have received sorely needed health services at a cost which has been minimal in comparison with the quality of services received. For the first time, large numbers of poor children in Appalachian Alabama have access to preprimary education; this includes developmental learning activities for children as young as 6 weeks. The programs have also provided badly needed outreach, information, and referral services to parents and families of program participants.

The comprehensive child care centers in Alabama, as currently funded, continue to provide educational, nutritional, social, and health care services for 2,060 children of low income families. Working parents pay an average fee of $12.50 to $20 per week. The average weekly cost per child to ARC is $24.

Child care services are available through title XX of the Social Security Act and all of our ARC programs do utilize title XX funds; however, title XX regulations exclude many of the working poor who desperately need child care services. Consequently, title XX funding is not the answer for the continuation of our programs. ARC programs serve nonwelfare, low income working parents, utilizing a sliding fee scale based on per capita family income. Obviously, title XX programs do not meet the need now being met by ARC programs. Should the population now being served be limited only to children and families eligible for title XX child care services, local support that we have worked for and acquired over the past five years would be lost.

Administrators of ARC programs throughout the State have sought funding from the Bureau of Education for the Handicapped, OCD, ARC, the State legislature, local governments and private industry, foundations, civic clubs, philanthropic organizations, boards of education, Department of Labor, churches, community development funds and other sources. Utilization of Head Start funds has also been investigated with no tangible results. Even though some programs have been successful in acquiring limited funds beyond the required 25 percent local match, the amounts have been small, and grantor's regulations have been extensive and in many instances, conflicting. The mechanics of fragmenting programs into components and seeking separate funding for each component requires more time, planning and administrative personnel, than is available or economically feasible. Fragmentation would also tend to disrupt the comprehensive design of ARC programs, which, unlike other public child care programs, are available to all socio-economic levels, are open 12 months a year, up to 11 hours per day and are geared specifically to the needs of the working parents.

The operating budgets of the past 5 years have added over $18,105,396 to the economy of the state and local communities with an economic impact of $126,737,772.00. Five hundred forty-seven persons are currently employed as a result of these programs, 90 percent of whom are minimum wage personnel.

To stabilize the operations and to avoid placing an unrealistic burden on the state and our local communities, it is critical that this bill be passed as a temporary measure to prevent program closures and/or reductions. Only through the passage of this bill will the State of Alabama be able to maintain the high quality and the diversity of services that the fifth year ARC child development programs now provide.

Mr. BAKER. Mr. President, I am pleased to join with the chairman of the Committee on Environment and Public Works in recommending H.R. 8777 to the Senate.

Briefly, the bill amends the Appalachian Regional Development Act to extend the child development program. Existing law allows the Appalachian Commission to fund demonstration child development programs for up to 5 years. The bill before the Senate extends the funding period up to 7 years in certain cases.

The purpose of the amendment is to allow the Commission to continue its assistance as projects initiated under the ARC authority move to other Federal, State, or local resources for continuing and permanent support.

The child development program was authorized in 1969 in response to the very serious health and education problems affecting the young people of the region. In the short time since its enactment, the program has brought many improvements throughout the region in health, nutrition, and educational services. It is an important commitment we make through this program to the most important resource of the region—our young people. We would not want to see contributing projects, which in some cases are the only services being provided, terminated by our failure to act expeditiously on this bill. The additional time will give the Commission, the Department of Health, Education, and Welfare, the affected States and local programs an opportunity to work together and arrange other funding for part or all of these services.

I underscore the chairman's remarks that this is a stopgap measure to facilitate the transition of the ARC demonstration projects to alternative funding sources. The Commission retains the final responsibility for reviewing projects and selecting those to receive continued funding.

Over the years, the Appalachian Regional Commission has been directed to undertake demonstrations throughout the region in several different fields including child development and health care. The idea is to "demonstrate" the feasibility of new and varied ways of dealing with the region's particular problems and to gain knowledge about the types, the organization, and the delivery of needed services. To carry out this mandate, the Commission was given flexibility in designing and establishing the demonstration projects, as most ongoing Federal programs were not structured or directed to undertake such activities.

The ARC program has been viewed as a learning process, to point the way that ongoing Federal or other programs could be altered to best serve the special conditions of the region. The Commission's demonstrations are not permanent, operating programs. The committee intends that the agencies—Federal, State, and local—with ongoing responsibilities in the area of child development pick up those early child development demonstration projects which have been approved. Many have long-track records and merit assistance from these sources.

I believe these projects should be viewed as ongoing projects not new undertakings by HEW when it reviews these applications. The ARC projects should not be penalized because they started several years ago under the initiative of the ARC to bring early child care services to a chronically underserved area. It would be a sad state of affairs if these worthwhile projects and years of work are allowed to fail because of procedural obstacles.

The committee will continue to work with the agencies involved in our efforts to secure proper, adequate services for the people of Appalachia.

Mr. METZENBAUM. Mr. President, I rise in support of the motion by the distinguished chairman of the Committee on Environment and Public Works for immediate consideration of H.R. 8777, a bill to authorize continued funding for the more than 325 child development centers supported by the Appalachian Regional Commission in the 13-State Appalachian region. Senators ALLEN, SPARKMAN, and GLENN joined me in introducing identical legislation in the Senate.

The child development program was created in 1969 to provide Appalachian families with a comprehensive child service system designed to improve health, nutritional and educational services. The program has been responsible for immunizing thousands of young children. It has made pre- and post-natal care available to mothers. Day care facilities established under the program have allowed over 9,000 parents to enter the work force. Infant mortality has declined sharply in the region, and, for the first time, large numbers of poor children in Appalachia have access to preprimary education. All of this has been accomplished at an annual cost to the Federal Government of $119 for each person assisted.

The child development program has provided tangible benefits to over 200,000 people in an economically depressed region at modest cost. In the long run, the human investments we have made in the children of Appalachia promise to pay back enormous dividends to the region and to the Nation as a whole.

Unfortunately, Mr. President, these valuable centers will face severe financial difficulties in the near future unless the Congress acts to maintain Federal assistance at current levels. Without help, some essential parts of the existing child service system will cease to operate.

This is so because, under current law, the Appalachian Regional Commission can fund each center for no longer than 5 years. At the end of that period, centers are expected to be financially self-supporting.

The 5-year requirement was established in 1969 and may have been quite reasonable at the time. Since 1969, however, inflation, high unemployment, soaring energy costs, and a host of other problems have placed great strain on local funds that might otherwise be available to support the centers.

In addition, ARC assistance is often necessary to permit the centers to take advantage of Federal funding sources. If ARC funds dry up, so will support from a variety of Federal programs.

In many States, for example, ARC dollars are used to meet matching requirements for Federal programs like title XX.

Similarly, medicaid and most other such third-party funding sources can reimburse the centers only after services have been delivered. ARC funds have been used to provide the working capital needed to deliver these reimbursable services in the first place. If ARC funding ends, so will ready access to working capital.

Another major problem is that no funding mechanism currently exists outside the Appalachian Regional Commission to defray the cost of providing medical services to the children of the working poor. Should ARC assistance come to an end, thousands of such children will have to be dropped from the system.

Mr. President, when I speak of reductions in essential services to the people of Appalachia, I am not speaking of hypothetical events that might take place at some time in the future. Closings and program cuts have already begun.

In Kentucky, termination of ARC funding forced one project to close its 3 day care centers and discharge 21 of its 23 employees. Another Kentucky project terminated 13 of its 22 staff members and is currently borrowing money to meet its payroll.

In Alabama, four projects which operate six day care centers have closed due to lack of funds. Ten Alabama projects are expected to close when their ARC funding runs out in January 1978. As many as 20 more may follow by September 1978.

A project director in South Carolina reports that when ARC funds terminate in June 1978, services to title XX—certified working mothers will also end.

In my own State of Ohio, an end to ARC subsidies will mean that a highly regarded clinic serving over 100 children per week will be able to serve only 20 medicaid and self-pay children per week. Over 1,800 children of working poor families will be deprived of the services this clinic now provides to them.

H.R. 8777 will provide a period of grace for the centers by extending current funding levels for 2 years. It will also direct the Appalachian Regional Com-

mission to investigate the difficulties these centers have encountered in finding alternative sources of support and to report back to the Congress on this matter within 12 months.

Some centers have been able to attain financial self-sufficiency within the prescribed period of time, but many have not. I believe that it would be better to find out why so many of these projects cannot yet phase out their ARC support than to force struggling centers to close their doors.

Mr. President, the child development program is an example of a Government project that works. I urge the Senate to act expeditiously on this legislation in order to permit the excellent start that has been made in improving the quality of life in Appalachia to continue. I can think of no area in which we can bring so large a benefit to the public for so small a price.

Mr. RANDOLPH. Mr. President, this bill, H.R. 8777, extends the child development demonstration programs administered by the Appalachian Regional Commission and authorized under section 202(c) of the Appalachian Regional Development Act from 5 years to 7 years. The bill does not authorize additional funds from the Federal Treasury; it does not authorize new programs; its authority is not mandatory. It was passed by the House on Tuesday.

Section 202(c) presently authorizes grant assistance for innovative and comprehensive child development demonstration projects, but assistance is limited by law to 5 consecutive years of operations. Dozens of these excellent child development centers in many Appalachian States have exhausted their 5-year eligibility but have been unable to achieve financial self-sufficiency. It was intended when this legislation was passed that after a demonstration period, the more successful of these projects would qualify for financial assistance under other State and Federal programs, such as title XX of the Social Security Act.

The House Committee on Public Works and Transportation, through its Subcommittee on Economic Development, held hearings on this bill on October 13, 1977. It became evident that administrative difficulties with programs that might have provided continued assistance prevented some meritorious child development centers from receiving such aid. This knowledge led our House colleagues to pass this bill to provide a transition period in the hope that appropriate State and Federal programs could be identified and adapted to provide the financial assistance for the continuation of these child development centers.

The bill has a second feature. It directs the Appalachian Regional Commission and the Department of Health, Education, and Welfare to make a full investigation of child development programs to determine the source and nature of the problems in phasing out financial assistance from the Appalachian Regional Commission. The agencies are to recommend solutions, including procedures by which financial support for these programs can be assumed by Federal-State or private agencies or a combination of them. These findings and recommendations are to be reported to the Congress not later than 1 year after enactment.

I will review precisely what the bill does. It permits the continued funding of the demonstration child development projects in Appalachia with up to 75 percent of annual operating costs for an additional 2-year period beyond the current 5-year limitation. This additional funding is available if the Appalachian Commission finds that Federal, State, or local funds are not available to continue these projects. The bill does not require the Commission to continue the projects nor does it alter current Commission policy and procedures in administering these programs. This amendment to the Appalachian Act merely extends the period of eligibility for support for up to 2 years for a maximum period of consecutive years.

The Environment and Public Works Committee recommends passage of this bill at this time because many of these projects would end before the Congress reconvenes in January.

Because of time constraints, the Committee on Environment and Public Works did not hold hearings on a similar bill introduced in the Senate. Committee members, however, have become sufficiently familiar with the activities and achievements of these centers to recommend their continuation until other funding sources can be located. We have received a great deal of mail from the people affected by these programs in Appalachia. We know they have sought funds from a variety of sources to supplement those from the Appalachian Regional Commission and to provide for continuation of the projects when the 5-year demonstration period came to an end.

For these reasons, we wish to adopt this bill immediately without further consideration by the Committee on Environment and Public Works. We know the programs; we know of their success. We know of no objection on either side of the aisle to the bill.

Mr. President, it is important to stress that this bill must is designed to protect good projects from premature termination while more permanent financing is arranged, other demonstration programs of the Appalachian program can also expect the Congress to provide additional authority when their demonstration period expires. I would oppose such requests. In my view, the timing and circumstances of the present extension of the child development program authority is unique and merits this action now.

Finally, I emphasize that the study by the Appalachian Commission and the Department of Health, Education, and Welfare of these programs and the resulting recommendations to the Congress should be given high priority by both agencies. There should be a working partnership in this effort.

I commend the able Senators from Ohio and Alabama who sponsored a version of this bill in the Senate and who have brought to our attention the consequences to disadvantaged Appalachian people if these child development centers are closed for lack of operating funds. I commend our colleagues in the House who built a convincing record on this bill and who moved it quickly to the Senate.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 8777) was read the third time, and passed.

## UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 528, S. 661.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, as I previously advised the majority leader, that item is cleared on our calendar as is the next item if he cares to proceed to it, Calendar No. 529.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate also proceed to the consideration of Calendar Order No. 529.

## STATUS OF CERTAIN OKLAHOMA INDIAN TRIBES

The Senate proceeded to consider the bill (S. 661) to restore Federal recognition of certain Indian tribes, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 1, beginning with line 3, strike through and including line 4;

On page 3, beginning with line 13, insert the following:

(3) The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who are direct lineal descendants of those Modocs removed to Indian territory (now Oklahoma) in November 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751), as determined by the Secretary, and the descendants of such Indians who otherwise meet the membership requirements adopted by the tribe.

So as to make the bill read:

S. 661

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SEC. 2. (a) Federal recognition is hereby extended or confirmed with respect to the Wyandotte Indian Tribe of Oklahoma, the Ottawa Indian Tribe of Oklahoma, and the Peoria Indian Tribe of Oklahoma, the provisions of the Acts repealed by subsection (b) of this section notwithstanding.

(b) The following Acts are hereby repealed:

(1) The Act of August 1, 1956 (70 Stat. 893; 25 U.S.C. 791–807) relating to the Wyandotte Tribe;

(2) The Act of August 2, 1956 (70 Stat. 937; 25 U.S.C. 821–826) relating to the Peoria Tribe; and

(3) The Act of August 3, 1956 (70 Stat. 963; 25 U.S.C. 841–853) relating to the Ottawa Tribe.

(c) There are hereby reinstated all rights and privileges of each of the tribes described in subsection (a) of this section and their members under Federal treaty, statute, or otherwise which may have been diminished or lost pursuant to the Act relating to them

which is repealed by subsection (b) of this section. Nothing contained in this Act shall diminish any rights or privileges enjoyed by each of such tribes or their members now or prior to enactment of such Act, under Federal treaty, statute, or otherwise, which are not inconsistent with the provisions of this Act.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligation for taxes already levied.

SEC. 3. (a) (1) The Modoc Indian Tribe of Oklahoma is hereby recognized as a tribe of Indians residing in Oklahoma and the provisions of the Act of June 26, 1936 (49 Stat. 1967, as amended; 25 U.S.C. 501–509), are hereby extended to such tribe and its members. The Secretary of the Interior shall promptly offer the said Modoc Tribe assistance to aid them in organizing under section 3 of said Act of June 26, 1936 (25 U.S.C. 503).

(2) The provisions of the Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. 564–564w), hereafter shall not apply to the Modoc Tribe of Oklahoma or its members except for any right to share in the proceeds of any claim against the United States are provided in sections 6(c) and 21 of said Act, as amended (25 U.S.C. 564(c) and 564t).

(3) The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who are direct lineal descendants of those Modocs removed to Indian territory (now Oklahoma) in November 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751), as determined by the Secretary, and the descendants of such Indians who otherwise meet the membership requirements adopted by the tribe.

(b) The Secretary of the Interior shall promptly offer the Ottawa Tribe of Oklahoma and the Peoria Tribe of Oklahoma assistance to aid them in reorganizing under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), which Act is reextended to them and their members by this Act.

(c) The validity of the organization of the Wyandotte Indian Tribe of Oklahoma under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), and the continued application of said Act to such tribe and its members is hereby confirmed.

SEC. 4. (a) It is hereby declared that enactment of this Act fulfills the requirements of the first proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), with respect to the Wyandotte Tribe of Oklahoma, the Ottawa Tribe of Oklahoma, and the Peoria Tribe of Oklahoma.

(b) It is hereby declared that the organization of the Modoc Tribe of Oklahoma as provided in section 3(a) of this Act shall fulfill the requirements of the second proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921).

(c) Promptly after organization of the Modoc Tribe of Oklahoma, the Secretary of the Interior shall publish a notice of such fact in the Federal Register including a statement that such organization completes fulfillment of the requirements of the provisos in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), and that the land described in section 1 of said Act is held in trust by the United States for the eight tribes named in said Act.

SEC. 5. The Wyandotte, Ottawa, Peoria, and Modoc Tribes of Oklahoma and their members shall be entitled to participate in the programs and services provided by the United States to Indians because of their status as Indians, including but no limited to those under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and for purposes of the Act of August 16, 1957 (71 Stat. 370, 42 U.S.C. 2005–2005F). The members of such tribes shall be deemed to be Indians for which hospital and medical care was being provided by or at the expense of the Public Health Service on August 16, 1957.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–574), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of S. 661 is to extend Federal recognition to four (4) Oklahoma Tribes which were adversely affected by the termination policy adopted by the United States in 1953. This bill would enable the Modoc, Wyandotte, Peoria, and Ottawa Tribes of Oklahoma to become eligible for Federal services and assistance provided to federally recognized tribes and their members.

This bill does not take any tribal or individually owned land off tax rolls or transfer any land titles to the Federal Government to be held in trust for the tribes and their members.

BACKGROUND

Termination was the official Federal Indian policy from 1953 through the late 1960's. It was a comprehensive program designed to eliminate reservations and to end the Federal-Indian relationship by subjecting Indians to State control without any Federal support or restrictions. Under this policy, Congress passed thirteen (13) legislative acts which established authorization procedures for cessation of the Federal-Indian relationship with respect to particular tribes. The four (4) tribes included in this bill were each the subject of separate legislation providing for their termination.

1. THE MODOC TRIBE

The Modoc Indians were terminated pursuant to the Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. § 564) which terminated the Klamath and Modoc Tribes of Oregon. Although physically separated from the Oregon Modoc Tribe since 1873, the Oklahoma Modocs have never comprised a distinct tribe and were, therefore, technically terminated by the above 1954 Act. This bill would provide for the establishment of a new "Modoc Tribe of Oklahoma" with an identity separate from the terminated Oregon Tribe.

2. THE WYANDOTTE TRIBE

The Act of August 1, 1956 (70 Stat. 893; 25 U.S.C. § 791) provided for the termination of the Wyandotte Tribe upon the transfer or disposition of all tribal assets. However, inability of the Bureau of Indian Affairs to dispose of a tribal burial tract has prevented the termination of the Wyandotte Tribe from becoming effective. This bill would remove the statutory threat of termination.

3. THE PEORIA TRIBE

The Act of August 2, 1956 (70 Stat. 937; 26 U.S.C. § 821), provided for the termination of Federal services to, and the Federal trust relationship with, the Peoria Tribe to be effective three (3) years after enactment. However, the Act did provide for the continuance of the Tribe's charter and the Secretary of Interior's powers and responsibilities under the Tribe's constitution and bylaws until final adjudication of all the Tribe's claims pending before the Indian Claims Commission or the Court of Claims. The last of such claims are presently awaiting adjudication before the Indian Claims Commission.

4. THE OTTAWA TRIBE

The Act of August 3, 1956 (70 Stat. 963; 26 U.S.C. § 841), provided for the termination of the Ottawa Tribe to be effective three (3) years after enactment.

NEED

During the termination era, the Department of Interior was directed to establish a priority listing of tribes for whom Federal services were to be ended. While there is no record to indicate why these four (4) Oklahoma Tribes were selected for termination, it is the present position of that Department that these tribes were among the politically weaker tribes who were not able to effectively resist the termination policy. No hearings were ever held on the legislation providing for the termination of these Oklahoma Tribes, and while legislative reports on the termination Acts indicate tribal support for the legislation, present tribal leaders contend they were coerced by the Interior Department into accepting termination.

As a result of their termination Acts, these four (4) Oklahoma Tribes have been ineligible for the services and assistance provided to Federally recognized tribes and their members. S. 661 would enable these tribes to participate in Federal, State, and local Indian programs.

S. 661 is supported by the Governor of Oklahoma, Oklahoma Congressional and State representatives, other Oklahoma Tribes, and the local units of government.

LEGISLATIVE HISTORY

A similar bill, S. 2968, was introduced by Senators Bartlett, Bellmon, and Hatfield in the 94th Congress, but no action was taken by the Senate.

S. 661 was introduced by Senators Bartlett and Bellmon on February 7, 1977. A hearing was held on the proposed measure before the Senate Select Committee on Indian Affairs on September 27, 1977. Testimony was received from the Interior Department and several tribal witnesses, all of whom supported enactment of S. 661.

A similar measure, H.R. 2497, was introduced by Congressman Risenhoover on January 26, 1977. A hearing was held before the Subcommittee on Indian Affairs and Public Lands on July 14, 1977. At that hearing, representatives from the Interior Department testified in favor of the bill with amendments.

## OPERATION AND MAINTENANCE CHARGES ON CERTAIN PUEBLO INDIAN LANDS

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

The bill (H.R. 2719) to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

The Senate proceeded to consider the bill.

Mr. ABOUREZK. Mr. President, this bill, which authorizes the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands, was passed by the House and subsequently reported unanimously out of the Senate Committee on Indian Affairs on October 7, 1977.

The Secretary of the Interior made these payments from 1935 to December 31, 1974, at which time his authority to do so expired. It was the Department of Interior's understanding that H.R. 2719 would retroactively cover the period from January 1, 1975, to the date of its enactment, as the money for these payments has already been appropriated to the Bureau of Indian Affairs, though the funds have not yet been disbursed. However, the committee has been informed by Senate legislative counsel that the Secretary of the Treasury must be specifically authorized to make payments for all periods between the date his authority expired and the date of enactment of this act.

The payments paid by the United States from 1935 through 1973 total $1,193,179.27, with current charges amounting to approximately $80,000 per year. The amount of money to be disbursed for the period 1975 through 1977 is, therefore, approximately $240,000.

The bill also needs to be technically amended to clarify the statutory citations by specifying the chapter number.

Mr. ROBERT C. BYRD. Mr. President, I understand Mr. ABOUREZK may have an amendment or amendments.

UP AMENDMENT NO. 1049

Mr. ABOUREZK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes unprinted amendment numbered 1049.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Lines 3 through 8 of the present bill will become subsection (A). The statutory citations shall be amended by adding the chapter numbers as follows:

1. Line 3—Strike "(49 Stat. 877)" and insert "(Ch. 745, 49 Stat. 887)."
2. Line 4—Strike "(52 Stat. 779)" and insert "(Ch. 525, 52 Stat. 779)."
3. Line 5—Strike "(60 Stat. 121)" and insert "(Ch. 219, 60 Stat. 121)."
4. Line 6—Strike "(70 Stat. 221)" and insert "(P.L. 546, 70 Stat. 221)."
5. Line 6—Strike "(79 Stat. 285)" and insert "(P.L. 89-94, 79 Stat. 285)."

Insert a new subsection (B) which will be as follows:

"(B) The Secretary of the Treasury is authorized and directed to make payments under the authority of the Act amended by subsection (A) of this Act for all such periods between the date of expiration or lapse of such Act and the date of enactment of this Act."

Mr. ABOUREZK. Mr. President, the Department of the Interior fully supports these amendments.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-575), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The act of August 27, 1935 (49 Stat. 887) authorized the Secretary of the Interior to enter into a contract with the Middle Rio Grande Conservancy District for payment of operation and maintenance charges on Pueblo Indian lands served by that district. H.R. 2719 would eliminate the expiration clause of that act, as amended, and would remove the need for subsequent legislation to extend the Secretary's authority to contract with the district on behalf of the Pueblos.

For 40 years, the United States has paid the operation and maintenance charges assessed against Indian lands located within the external boundaries of the conservancy district. The district's non-Indian water users would have to maintain these costs should they be discontinued by the United States.

BACKGROUND

The Middle Rio Grande Conservancy District, established in 1927, is a political subdivision of the State of New Mexico created for the purpose of constructing and operating a modern irrigation and flood control project. Located within the external boundaries of the district are 6 Indian Pueblo groups whose lands were included in the district's plans in order to provide project benefits to the Indians.

Because the Indians were unable to pay the charges assessed against their lands, Congress passed the above-mentioned act of August 25, 1935, authorizing the Secretary of the Interior to contract with the conservancy district for payment of these costs. Congressional appropriations cover only newly reclaimed Pueblo lands and lands purchased by the Government for the Pueblos. No charges were assessed against Pueblo lands adequately irrigated before the project. The total amount paid by the United States from 1935 through 1973 is $1,193,179.27, with current assessments totaling $80,000 per year.

The act of August 27, 1935, only covered a 6-year period. Subsequently, additional legislation and contracts with the district enabled the Interior Department to continue these payments through 1974, when the last contract expired.

LEGISLATIVE HISTORY

A companion bill, S. 1789, was introduced by Senator Abourezk on June 30, 1977. A hearing was held before the Senate Select Committee on Indian Affairs on September 29, 1977, and testimony was received from representatives from the administration who expressed their support for the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 2719), as amended, was passed.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ROUTINE MORNING BUSINESS

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

## EXECUTIVE MESSAGE REFERRED

A message from the President of the United States submitting the nomination of Howard A. Heffron, of Maryland, to be Director of the Office of Rail Public Counsel, which was referred to the Committee on Commerce, Science, and Transportation.

## WORLD WEATHER PROGRAM—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce, Science, and Transportation:

*To the Congress of the United States:*

The memory of the severe winter of 1976–1977 in the eastern United States and its effects on our people and the national economy is still fresh in our minds. The continuing drought in the western United States is affecting not only agriculture and power generation but even basic community water supplies. Droughts, floods and freezes in the USSR, the African Sahel, the Indian subcontinent and Brazil in recent years have unsettled world markets and inflicted misery and often death upon untold numbers of people.

Senate Concurrent Resolution 67 of the 90th Congress dedicated the United States to participate in the World Weather Program in order to develop improved worldwide weather observations and services and to conduct a comprehensive program of research to extend our understanding and prediction of global weather and climate variations. I am pleased to transmit, in accordance with that Resolution, this annual World Weather Plan that describes significant activities and accomplishments and outlines the planned participation of Federal agencies for the coming fiscal year. The progress already achieved in this vital program demonstrates that we truly can do something to help our people anticipate and cope with the effects of the world's weather.

JIMMY CARTER.

THE WHITE HOUSE, *November 3, 1977.*

## AMENDMENTS TO REORGANIZATION PLAN NO. 2—PM 130

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

*To the Congress of the United States:*

I herewith transmit amendments to Reorganization Plan No. 2 of 1977, which I transmitted to you on October 12, 1977, and certain amendments to which I transmitted on November 1, 1977. Except as specifically amended hereby and by the amendments transmitted November 1, 1977, Reorganization Plan No. 2 remains unmodified.

JIMMY CARTER.

THE WHITE HOUSE, *November 3, 1977.*

## MESSAGES FROM THE HOUSE

At 10:54 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has passed the bill (S. 1560) to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

## ENROLLED BILLS SIGNED

The Speaker has signed the following enrolled bills:

S. 1142. An act for the relief of Kam Lin Cheung.

S. 2052. An act to extend the supervision of the United States Capitol Police to certain facilities leased by the Office of Technology Assessment.

H.R. 4458. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes.

H.R. 6010. An act to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 11:50 a.m., a message from the House of Representatives by Mr. Berry, one of its clerks, announced that:

H. Res. 851. A resolution expressing disapproval of proposed deferral D78-30, relating to the Energy Research and Development Administration, Gas Cooled Thermal Reactor Program;

H. Res. 852. A resolution expressing disapproval of proposed deferral D78-33, relating to the Energy Research and Development Administration, Magnetic Fusion Energy Program—Fusion Material Test Facility;

H. Res. 853. A resolution expressing disapproval of proposed deferral D78-34, relating to the Energy Research and Development Administration, Magnetic Fusion Energy Program—Intense Neutron Source Facility; and

H. Res. 854. A resolution expressing disapproval of proposed deferral D78-35, relating to the Energy Research and Development Administration, High Energy Physics Program—Intersecting Storage Ring Accelerator.

The House has passed the bill (S. 1269) for the relief of Cammilla A. Hester, with an amendment in which it requests the concurrence of the Senate.

The House has passed the following bills and agreed to the following resolution in which it requests the concurrence of the Senate:

H.R. 1422. An act for the relief of Julio Ortiz-Medina;

H.R. 4404. An act for the relief of Susan Spurrier;

H.R. 4535. An act for the relief of Kazuko Nishioka Dowd;

H.R. 5097. An act for the relief of Doctor Daryl C. Johnson;

H.R. 5099. An act for the relief of Brian Hall and Vera W. Hall;

H.R. 7162. An act for the relief of Stephanie Johnson;

H.R. 8159. An act to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes;

H.R. 8992. An act to amend title 3 of the United States Code to change the name of the Executive Protective Service;

H.R. 8993. An act to designate the Secret Service Training Center as the "James J. Rowley Secret Service Training Center";

H.R. 9378. An act to amend title IV of the Employee Retirement Income Security Act of 1974 to postpone, for two years, the date on which the corporation first begins paying benefits under terminated multiemployer plans;

H.R. 9704. An act to amend the Federal Crop Insurance Act, and for other purposes; and

H. Con. Res. 369. A concurrent resolution to establish a revised coverage schedule for basic benefits guaranteed by the Pension Benefit Guaranty Corporation for employee pension benefit plans which are not multiemployer plans.

At 1:10 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1184) to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes.

The House has passed the bill (H.R. 8331) to amend the Securities Investor Protection Act of 1970, in which it requests the concurrence of the Senate.

The House disagrees to the amendment of the Senate to the bill (H.R. 9794) to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act.

The House recedes from its amendment to the amendment of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes; and agrees to the amendment of the Senate with amendments in which it requests the concurrence of the Senate.

At 4:12 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that:

The House has passed the bill (S. 1063) to amend the District of Columbia Self-Government and Governmental Reorganization Act, with amendments in which it requests the concurrence of the Senate.

The House has passed the bill (H.R. 7320) to revise miscellaneous timing requirements of the revenue laws, and for other purposes, in which it requests the concurrence of the Senate.

At 4:55 p.m., a message from the House of Representatives delivered by Mr. Hackney announced:

The House agrees to the amendments of the Senate to the bill (H.R. 8499) to amend section 16(b) of the Alaska Native Claims Settlement Act.

The House insists upon its amendments to the bill (S. 305) to amend the Securities Exchange Act of 1934 to require issuers of securities registered pursuant to section 12 of such act to maintain accurate records, to prohibit certain bribes, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ECKHARDT, Mr. METCALFE, Mr. KRUEGER, Mr. CARNEY, Mr. DEVINE, and Mr. BROYHILL were appointed managers of the conference on the part of the House.

The House has passed the bill (H.R. 9836) to authorize the Architect of the Capitol to furnish chilled water to the Folger Shakespeare Library, in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The Speaker has signed the following enrolled bills and joint resolution:

S. 854. An act to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Inc., and for other purposes.

S. 1062. An act to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act.

S. 1339. An act to authorize appropriations for the Energy Research and Development Administration for national security programs for fiscal years 1977 and 1978, and for other purposes.

S. 1528. An act to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water systems.

S. 1863. An act to authorize appropriations during fiscal year 1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and for research, development, test, and evaluation for the Air Force and the Defense agencies, and for other purposes.

H.R. 7278. An act to amend section 10 of the Merchant Marine Act, 1936.

H.R. 9019. An act to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95-188), transmitted pursuant to the Impoundment Control Act of 1974.

H.R. 9512. An act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purposes of participation in programs authorized by that act.

H.R. 9710. An act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes.

H.J. Res. 621. Joint resolution approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

## PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM-382. A resolution adopted by the National Conference of Lieutenant Governors encouraging State agencies to work closely with the United States Department of Commerce in attracting foreign investment to the United States and in the stimulation of foreign trade; to the Committee on Foreign Relations.

POM-383. A resolution adopted by the Na-

tional Conference of Lieutenant Governors urging the President and Congress to take action that may be required to provide assistance and relief to the economy as a result of the recent droughts; to the Committee on Environment and Public Works.

POM-384. A resolution adopted by the National Conference of Lieutenant Governors commending the Congress in providing funds to enable the National Science Foundation to develop a program to increase the capability of state legislators to understand and use science and technology in meeting the needs of their citizens; to the Committee on Human Resources.

POM-385. A resolution adopted by the National Conference of Lieutenant Governors urging acceleration of offshore energy exploration and development; to the Committee on Energy and Natural Resources.

POM-386. A resolution adopted by the National Conference of Lieutenant Governors recommending that the President take necessary steps to make adequate funds available for an orderly and rapid upgrading of our national rail transportation system; to the Committee on Commerce, Science, and Transportation.

POM-387. A resolution adopted by the National Conference of Lieutenant Governors enabling the NCLG's committee on National Food Policy to continue as liaison with the Congress on governmental and agricultural economies; to the Committee on Agriculture, Nutrition, and Forestry.

POM-388. A resolution adopted by the National Conference of Lieutenant Governors calling for improved services for older Americans; to the Committee on Human Resources.

POM-389. A resolution adopted by the National Conference of Lieutenant Governors reaffirming its commitment to efforts to consolidate federal tourism agencies and to create a national tourism policy; to the Committee on Commerce, Science, and Transportation.

POM-390. A resolution adopted by the National Conference of Lieutenant Governors commending Hubert H. Humphrey; ordered to lie on the table.

POM-391. A resolution adopted by the Southern Governors' Conference calling for an investigation of the growth of small cities and their place in a balanced growth policy; to the Committee on Governmental Affairs.

POM-392. A resolution adopted by the Southern Governors' Conference asking Congress to insure that American Business can compete on an equal basis in international markets; to the Committee on Finance.

POM-393. A resolution adopted by the Southern Governors' Conference requesting that the Federal government take such action as is necessary so that Puerto Rico is treated as part of Federal Region IV; to the Committee on Governmental Affairs.

POM-394. A resolution adopted by the Southern Governors' Conference urging the enactment of Title II of H.R. 7200; to the Committee on Finance.

POM-395. A resolution adopted by the Southern Governors' Conference submitting a policy statement concerning the Nation's continuing energy problem; to the Committee of Energy and Natural Resources.

POM-396. A resolution adopted by the Southern Governors' Conference urging Congress to provide substantial additional funding for the federal highway aid systems; to the Committee on Environment and Public Works.

POM-397. A resolution adopted by the Southern Governors' Conference supporting federal efforts to fund state and local corrections construction programs; to the Committee on the Judiciary.

POM-398. A resolution adopted by the Southern Governors' Conference urging support for the development of a regional jail system; to the Committee on the Judiciary.

POM-399. A resolution adopted by the Southern Governors' Conference asking that a Presidential task-force be appointed to review the long-term stability and health of America's vast food producing industry; to the Committee on Agriculture, Nutrition, and Forestry.

POM-400. A resolution adopted by the Southern Governors' Conference asking the President to designate one agency as the agency responsible for federal response to both natural and man-made disasters; to the Committee on Governmental Affairs.

POM-401. A resolution adopted by the Southern Governors' Conference asking that any revisions to the LEAA funding program implement a special criminal justice revenue sharing system; to the Committee on the Judiciary.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Select Committee on Ethics:

S. Res. 319. An original resolution amending the Standing Rules of the Senate to establish standards for accepting certain travel expenses and to require separate reporting of those travel expenses accepted, and for other purposes (Rept. No. 95-586).

By Mr. EASTLAND, from the Committee on the Judiciary:

Without amendment:

S. 405. A bill for the relief of Chong Cha Williams (Rept. No. 95-587).

S. 432. A bill for the relief of Rosalinda Flores Vaow (Rept. No. 95-588).

S. 1401. A bill for the relief of Elvi Engelsmann Jensen (Rept. No. 95-589).

H.R. 2661. An act for the relief of Patricia R. Tully (Rept. No. 95-590).

With an amendment:

S. 1563. A bill for the relief of Do Sook Park (Rept. No. 95-591).

H.R. 3313. An act for the relief of Mark Charles Mieir and Liane Maria Mieir (Rept. No. 95-592).

S. 1052 A bill for the relief of Brian Patrick Webb and his wife, Laurene Ann Webb (title amendment) (Rept. No. 95-593).

H.R. 5555. An act for the relief of Adelida Rea Berry (title amendment) (Rept. No. 95-594).

With amendments:

S. 973. A bill for the relief of Young-Shik Kim (Sept. No. 95-595).

S. 833. A bill for the relief of Ah Young Cho (title amendment) (Rept. No. 95-596).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

Without amendment:

H.R. 6348. An act to convey to the Ely Indian Colony the beneficial interest in certain Federal land.

With an amendment:

S. 1214. A bill to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes (Rept. No. 95-597).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

Livingston L. Biddle, Jr., of the District of Columbia, to be chairman of the National Endowment for the Arts.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Br. Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Joseph F. Timilty, of Massachusetts, to be Chairman of the National Commission on Neighborhoods.

Donald Eugene Stingel, of Pennsylvania, to be a member of the Board of Directors of the Export-Import Bank of the United States.

Stella B. Hackel, of Vermont, to be Director of the Mint.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Tyrone Brown, of the District of Columbia, to be a member of the Federal Communications Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## HOUSE BILLS REFERRED

The following bills were each read twice by title and referred as indicated:

H.R. 1422. An act for the relief of Julio Ortiz-Medina; to the Committee on the Judiciary.

H.R. 4404. An act for the relief of Susan Spurrier; to the Committee on the Judiciary.

H.R. 4535. An act for the relief of Kazuko Nishioka Dowd; to the Committee on the Judiciary.

H.R. 5097. An act for the relief of Doctor Daryl C. Johnson; to the Committee on the Judiciary.

H.R. 5099. An act for the relief of Brian Hall and Vera W. Hall; to the Committee on Finance.

H.R. 7162. An act for the relief of Stephanie Johnson; to the Committee on the Judiciary.

H.R. 8159. An act to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 8993. An act to designate the Secret Service Training Center as the "James J. Rowley Secret Service Training Center"; to the Committee on Environment and Public Works.

H.R. 8331. An act to amend the Securities Investor Protection Act of 1970; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 7320. An act to revise miscellaneous timing requirements of the revenue laws, and for other purposes; to the Committee on Finance.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. STEVENSON:

S. 2282. A bill to amend the Internal Revenue Code of 1954 to provide that certain annual additions with respect to a participant in a pension plan may exceed 25 percent of the participant's compensation; to the Committee on Finance.

By Mr. PROXMIRE:

S. 2283. A bill to amend the Federal Reserve Act with respect to the role of Congress in the conduct of monetary policy; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BARTLETT:

S. 2284. A bill to amend section 3015(c) of title 10, United States Code, to require that the Chief of National Guard Bureau hold the grade of lieutenant general; to the Committee on Armed Services.

By Mr. WEICKER:

S. 2285. A bill to establish a program for the enhancement of the United States capability in manned undersea science and technology; to the Committee on Commerce, Science, and Transportation.

By Mr. HANSEN:

S. 2286. A bill providing that the excess land provisions of Federal Reclamation laws shall not apply to certain land receiving a supplemental water supply from the Shoshone Project, Wyoming; to the Committee on Energy and Natural Resources.

By Mr. BURDICK:

S. 2287. A bill to amend title VII of the Public Health Service Act to provide for the making of grants to schools of medicine to assist them in the establishment and operation of educational programs in geriatrics; to the Committee on Human Resources.

By Mr. HEINZ:

S. 2288. A bill to establish, within the medicare system, a special program of long-term care services for individuals covered under part B of medicare, receiving supplementary security income benefits, or eligible to enroll under part B of medicare; to establish special Federal, and provide for the establishment of such special programs; and for other programs; to the Committee on Finance.

By Mr. WALLOP:

S. 2289. A bill relating to the Buffalo Bill Extension, Shoshone Project, Wyoming; to the Committee on Energy and Natural Resources.

By Mr. WALLOP (for himself and Mr. HANSEN):

S. 2290. A bill to require the Administrator of Veterans' Affairs to issue a deed to the city of Cheyenne, Wyoming, for certain land heretofore conveyed to such city, removing certain conditions and reservations made a part of such prior conveyance; to the Committee on Veterans' Affairs.

By Mr. BROOKE:

S. 2291. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to extend relocation assistance to persons displaced as the result of real property acquisitions by private persons for federally assisted programs or projects, and for other persons; to the Committee on Governmental Affairs.

By Mr. PACKWOOD:

S. 2292. A bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; jointly, by unanimous consent, to the Committee on Governmental Affairs and the Committee on the Judiciary.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENSON:

S. 2282. A bill to amend the Internal Revenue Code of 1954 to provide that certain annual additions with respect to a participant in a pension plan may exceed 25 percent of the participant's compensation; to the Committee on Finance.

Mr. STEVENSON. Mr. President, I introduce a bill that would make a desirable and essentially technical amendment to section 415(c) of the Internal Revenue Code pertaining to qualified profit-sharing plans.

One of my constituents, DeKalb AgResearch, Inc., DeKalb, Ill., has brought to my attention the fact that limitations established by the 1974 ERISA legislation on employer contributions to qualified profit-sharing plans has, contrary to the law's intent of preventing qualified plans from being used to finance large benefits for higher paid employees, inequitably limited the benefits available to DeKalb's lower-paid employees under its profit-sharing plan. The proposed bill would remedy this unintended effect of the law by exempting from the limitations of section 415(c), qualified plans that provide for equal annual allocations among each participant or allocations based on hours of service, provided that the exemption would not apply to managerial or highly compensated employees. The amendment thus carries forward the purpose of section 415(c) while at the same time giving lower-paid employees the chance to obtain maximum benefits from a qualified profit-sharing plan.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2282

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subsection (c) of section 415 of the Internal Revenue Code of 1954 (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph:

"(8) EXCEPTION FOR CERTAIN PLANS.

"(A) IN GENERAL.—Subparagraph (B) of paragraph (1) shall not apply to a participant if the plan provides that the annual addition is allocated equally to each participant or is allocated to each participant based on hours of service.

"(B) CERTAIN EMPLOYEES.—Subparagraph (A) shall not apply to any participant—

"(i) who is an officer, shareholder, or highly compensated, or

"(ii) who is an employee within the meaning of section 401(c)(1)."

(b) The amendment made by subsection (a) shall apply to years beginning after December 31, 1975.

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By Mr. PROXMIRE:

S. 2283. A bill to amend the Federal Reserve Act with respect to the role of Congress in the conduct of monetary policy; to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, today I am introducing legislation which would greatly increase the ability of the Congress to monitor and evaluate the Federal Reserve's monetary policy plans and objectives. Since May of 1975 the Federal Reserve Board has reported to the Congress, through hearings held by the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Currency and Housing of the House of Representatives, its objectives and plans with respect to growth in the monetary aggregates pursuant to the requirements of House Concurrent Resolution 133. House Concurrent Resolution 133 has made a contribution to economic policymaking in the United States by bringing monetary policy more into the public domain where it can be discussed and debated. That resolution has been in effect for 2½ years, and it is appropriate to review its strengths and weaknesses.

Tuesday the Senate considered and passed H.R. 9710. Section 202 of that bill inserts into the Federal Reserve Act language which codifies the reporting requirements of House Concurrent Resolution 133. Those requirements are not, and have not been, sufficient to allow the Congress to make an objective analytical evaluation of the Federal Reserve's monetary policy plans for several reasons.

First, the Board is only required to report its objectives and plans for changes in the monetary and credit aggregates. These aggregates are only intermediate targets of monetary policy. The Federal Open Market Committee's main concern should be with the real economy production, employment, and prices, and its objectives and plans for the monetary and credit aggregates should be consistent with its objectives for the real economy. This legislation would require the Federal Reserve to provide the Congress with its estimates of the levels of employment, production and prices that are consistent with its monetary and credit aggregate plans and objectives. This would allow a more objective review of the Federal Reserve's policies.

Second, the current reporting procedures require the Federal Reserve to report on its objectives and plans for the upcoming 12-month period. Thus, each quarterly announcement presents growth rate ranges for the monetary aggregates which apply to a different starting and ending point in time. Given this shifting time frame and the wide variability of the monetary aggregates in the short run the current objectives and plans are in effect for only a quarter rather than a full 12 months. This short-term focus is not appropriate. Moreover, it has resulted in almost a religious cult of Fed watchers who anxiously await weekly M–1 numbers.

Third, at only one point within the year does the Federal Reserve provide its plans and objectives for a period of time that encompasses a full fiscal year. This makes the job of the congressional committees responsible for fiscal policy planning more difficult, for they must take into account the possible effects that monetary policy will have on the economy and the economic assumptions underlying the budget. This legislation would solve both these timing problems by requiring the Federal Reserve to report its plans and objectives for both the current fiscal year during which the oversight hearing is held and the upcoming fiscal year that is being considered by the Budget Committees. This would also facilitate better planning and perhaps closer coordination of monetary and fiscal policy.

At my request the Congressional Re-

search Service of the Library of Congress has prepared a description and critique of the system used for quarterly Federal Reserve reporting to the Congress. I ask unanimous consent that this study be inserted in the RECORD at this point.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

[Prepared at the request of the Committee on Banking, Housing, and Urban Affairs, U.S. Senate]

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
*Washington, D.C.*

DESCRIPTION AND CRITIQUE OF THE SYSTEM USED FOR QUARTERLY FEDERAL RESERVE SYSTEM ANNOUNCEMENTS TO THE CONGRESS OF PROJECTED RANGES OF GROWTH FOR MONETARY AGGREGATES

(By Roger S. White, Analyst in Money and Banking Economics Division, October 31, 1977)

(Charts are not printed in the CONGRESSIONAL RECORD.)

I. INTRODUCTION

The Congress has held quarterly hearings on the conduct of monetary policy since May 1975 following procedures set forth in House Concurrent Resolution 133 of the 94th Congress. Among its provisions the resolution placed certain reporting requirements on the Federal Reserve System (FRS):

"The Board of Governors shall consult with Congress at semi-annual hearings before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Currency, and Housing of the House of Representatives about the Board of Governors' and the Federal Open Market Committee's objectives and plans with respect to the ranges of growth or diminution of monetary and credit aggregates in the upcoming 12 months."

A formalized system for reporting objectives with respect to monetary aggregate growth rates and for monitoring actual growth rates with respect to those objectives evolved very early in the life of the quarterly oversight hearings.

The reports issued under this system have received considerable attention because of their significance in introducing quantifiable statements concerning long-term FRS monetary policy objectives. Announcements of projected growth rate ranges for monetary aggregates have undoubtedly facilitated congressional oversight of monetary policy. Several legislative proposals for making the quarterly hearings, initiated under the concurrent resolution, a permanent feature of congressional oversight of monetary policy have incorporated all or substantial portions of the language of that part of the resolution which has served as the basis for the current reporting system. Although this system, in principle, has been widely endorsed, questions have been raised during legislative hearings and during some of the quarterly oversight hearings about particular features of that system and its comprehensiveness in conveying sufficient information to the Congress for its review of monetary policy.

This paper presents a critique of the reporting system, focusing on the information it conveys as it relates to congressional roles in reviewing and formulating economic policy. It is accepted as a premise of this paper that information about past and projected growth rates of various measures of the stock of money is useful in portraying the course of monetary policy. Indeed, most economists regard such growth rates as significant determinants, directly or indirectly, of changes in prices, output and employment even though economists differ among themselves in the relative importance and causal roles they ascribe to interest rates and monetary growth rates as determinants of the general course of the economy.

The primary focus of this paper is confined to the system for reporting monetary aggregates growth rate objectives, the relationship of the information it generates, projected monetary aggregate growth rates, to the full set of factors which comprise monetary policy and the effectiveness of the reporting system, given its scope, in conveying clear and informative statements to the Congress. The paper does not address proposals for reporting on additional monetary measures such as interest rates or the velocity of money.

The next section of this paper discusses the scope of monetary aggregate growth rates in relation to the full range of information pertaining to monetary policy. It indicates the limitations inherent in any reporting system confined to growth rates of monetary aggregates. The third section describes the existing reporting system noting those aspects which can be directly traced to provisions of H. Con. Res. 133 and those aspects which have evolved independently of specific resolution language. The fourth section examines the effectiveness of the reporting system in conveying timely and informative statements to the Congress concerning objectives and plans for growth rates of monetary aggregates and implications of such objectives and plans. It describes several limitations of the system and discusses examples of modifications which would overcome selected limitations.

II. THE RELATIONSHIP OF MONEY AGGREGATE GROWTH PROJECTIONS TO MONETARY POLICY

The formulation of monetary policy consists of designing strategies for transforming prevailing aggregate economic conditions, such as those reflected in levels of unemployment, the growth rate of gross national product and changes in prices, to desired conditions at some point in the future. Changes in the stock of money constitute one of the linkages in the chain of events which begin with discretionary actions of the FRS and ultimately result in influencing general economic conditions. Under the existing reporting system, the FRS has announced growth rate objectives for various measures of the stock of money. These announcements do not include similar systematic reports regarding other elements of monetary policy. Among the excluded elements are the manner in which the FRS intends to achieve monetary growth rate objectives and how and to what extent, according to the strategy accepted by the FRS, the attainment of these objectives is expected to influence general economic conditions. Some perspective on the contribution of monetary growth rate announcements in providing information about monetary policy may be gained by examining the fuller range of elements which enter into the formulation of monetary policy.

Announced growth rates for monetary aggregates implicitly includes FRS assessments regarding the course of events emanating from the direct actions of the FRS and resulting in changes in the stock of money. The principal point at which the FRS has a controlling influence in the sequence of events which lead to changes in the stock of money is determining the size of the monetary base and in setting requirements on commercial banks which are expressed in terms of the amount of monetary base assets held by banks. The monetary base consists of currency held by the public and by banks and reserve deposits held by banks with the FRS. With open market purchases (sales) of securities the FRS increases (decreases) the size of the monetary base. Also as the FRS increases its lending to banks through the discount mechanism, it increases the size of the monetary base.

Although the size of the monetary base is a principal ingredient in determining the size of the stock of money, there are other factors outside the direct control of the FRS which have an influence. The roles of the monetary base and other factors in determining the money supply are least complicated as they relate to the most narrow definition of money, M1, which consists of currency and demand deposits held by the public. Those banks which are members of the FRS face a reserve requirement constraint on the amount of deposits they can create in the process of lending or acquiring securities. Reserves for member banks consist of deposits with the FRS and cash in vault. For a given size of the monetary base, interactions of the public with banks determine how much of the monetary base is held as currency by the public as opposed to being held by banks in the form of cash in vault or as deposits with the FRS. Reserve requirements set the minimum amount of reserves member banks must hold and are expressed as percentages of deposits. The percentages vary with the aggregate amount of deposits outstanding from an individual member bank and also differ from demand deposits and various types of time and savings deposits. Variations in bank holdings of reserves in excess of requirements, without other offsetting developments, affect the relationship between the size of the monetary base and the stock of money. This relationship also changes with variations among member banks as a whole in the use of reserves to support different proportions of demand deposits and time and savings deposits or to support the growth of deposits distributed in alternative ways among banks having different sizes of aggregate deposits. In addition, this relationship is affected by changes in the distribution of the monetary base between member banks and nonmember banks. Non-member banks face reserve requirements which differ from member bank requirements and vary from State to State.

There is substantial agreement in identifying mechanisms for influencing the monetary base and the variables (not necessarily the values for these variables) entering into transforming changes in the monetary base to changes in the stock of money. The FRS faces several basic alternatives, however, in arriving at its perceptions as to how and to what extent changes in the stock of money influence general economic conditions. Among these is an emphasis on a direct impact of changes in stock of money on the level of economic activity associated with increasing the ability of the economic units to finance purchases of goods and services as opposed to an emphasis on an indirect impact through the influence of changes in the stock of money on interest rates, the cost of acquiring funds to finance the purchase of goods and services. Additional alternatives which the FRS faces include emphases on short-run versus long-run consequences of policy actions and the assignment of varying degrees of importance to the swiftness and order of magnitude of monetary aggregate or interest rate changes it allows to take place or deliberately encourages. The formulation of monetary policy also includes some estimation of the role of other factors such as fiscal policy, institutional aspects of the economy and international developments in influencing economic conditions.

III. DESCRIPTIONS OF THE REPORTING SYSTEM

H. Con. Res. 133 called for the FRS to report at quarterly intervals its "objectives and plans with respect to range of growth or diminution of monetary and credit aggregates in the upcoming 12 months." The resolution stipulated both the frequency of reporting and the period of time to be covered in the reports. Other elements of the report-

ing system were set forth in less specific terms.

The resolution did not specify particular measures or definitions for monetary and credit aggregates. Beginning with the first hearing, in May 1975, objectives with respect to monetary aggregates have been presented for three related measures of money: M1, consisting of currency in circulation plus demand deposits at commercial banks; M2, consisting of M1 plus savings and time deposits at commercial banks other than large-denomination negotiable certificates of deposit; and M3, consisting of M2 plus time and savings deposits held at nonbank thrift institutions which include savings banks, savings and loan associations and credit unions. A credit aggregate measure was used only once, at the initial set of hearings. The resolution also did not specify the size of growth rate ranges to be used in FRS statements of objectives. In practice the ranges have been between 2 and 3 percentage points for each of the three measures of money.

There are two additional elements of the reporting system which have received definition in the process of implementation rather than through resolution language. One element is the determination of what constitutes the starting and ending "points" for calculating annual growth rates. In the initial report, growth rates were specified in terms of changes in the monthly averages of daily amounts of each aggregate from March 1975 through March 1976. In subsequent reports, growth rates were set in relation to quarterly averages, for example, from the second quarter of 1975 through the second quarter of 1976.

A choice also existed in interpreting growth rate objectives as projections against which to compare actual growth rates for one year intervals as a whole or as growth rate ranges against which actual growth rates were to be compared during the course of one year projection periods. The former interpretation has achieved acceptance during the hearings.

It should be noted that the resolution provided for flexibility in the use of announced growth rate objectives in FRS accountability for actual performance of monetary aggregates. Specifically, it acknowledged that the announced objectives are not to be viewed as requirements, but called for explanations of instances in which they were not met:

"Nothing in this resolution shall be interpreted to require that such ranges of growth or diminution be achieved if the Board of Governors and the Federal Open Market Committee determine that they cannot or should not be achieved because of changing conditions. The Board of Governors shall report to the Congress the reasons for any such determination during the next hearings held pursuant to this resolution."

The FRS announcements of objectives for monetary aggregate growth rate ranges are expressed in terms of upper and lower bound growth rates for averages of monetary aggregates from the most recently completed quarter or base quarter through the same quarter of the following year. It has been accepted during the life of the quarterly hearings that the aggregates for each year as a whole rather than establishing an objective growth path for aggregates during the course of each projection year. Thus, the information contained in each quarterly announcement which conveys policy objectives pertains to the range for each aggregate at the close of the four quarter period addressed in a given announcement.

The accompanying charts plot these year-end objectives for M1 and M2 in terms of the projected upper and lower bounds for each aggregate as defined by the announced upper and lower growth rates and the size of each aggregate in the base quarter to which the growth rates apply. At any time, there are four such year-end objectives in force for each monetary aggregate. These include the objectives which had been set a year earlier for the quarter in progress and objectives which were announced subsequently for years ending with the next three quarters. Upon the passage of the current quarter, a new set of objectives for the year ahead will be announced. The upper and lower bound levels corresponding with successive year-end objectives establish a channel within which actual levels of monetary aggregates must fall if they are to meet the announced objectives. The accompanying table presents actual and projected growth rate ranges.

### IV. CRITIQUE OF THE SYSTEM AND EXAMPLES OF ALTERNATIVE ARRANGEMENTS

In examining the current system for reporting monetary aggregate growth rate objectives, it is important to bear in mind that this system is used in relation to long-term monetary growth objectives. The effectiveness of this system, given its scope, may be judged in terms of its success in conveying to the Congress information in its most useful form about long-term monetary growth policy. Viewing various aspects of the system independently, several features of the system can be identified as adversely affecting the ease of properly interpreting the information the system generates and the compatibility of that information with the congressional economic policy planning horizon.

TABLE 1.—FEDERAL RESERVE SYSTEM TARGETS AND ACTUAL GROWTH RATES FOR MONETARY AGGREGATES

| Monetary aggregate and year ending | Target range (percent) | Actual growth rate (percent) |
|---|---|---|
| M1 (currency and demand deposits): | | |
| March 1976 | 5 – 7½ | 4.9 |
| II quarter, 1976 | 5 – 7½ | 5.2 |
| III quarter, 1976 | 5 – 7½ | 4.6 |
| IV quarter, 1976 | 4½ – 7½ | 5.6 |
| I quarter, 1977 | 4½ – 7 | 6.0 |
| II quarter, 1977 | 4½ – 7 | 6.0 |
| III quarter, 1977 | 4½ – 6½ | 7.3 |
| IV quarter, 1977 | 4½ – 6½ | |
| I quarter, 1978 | 4½ – 6½ | |
| II quarter, 1978 | 4 – 6½ | |
| M2 (currency, demand deposits and consumer type time and savings deposits at commercial banks): | | |
| March 1976 | 8½–10½ | 9.6 |
| II quarter, 1976 | 8½–10½ | 9.6 |
| III quarter, 1976 | 7½–10½ | 9.3 |
| IV quarter, 1976 | 7½–10½ | 10.9 |
| I quarter, 1977 | 7½–10 | 10.9 |
| II quarter, 1977 | 7½ – 9½ | 10.6 |
| III quarter, 1977 | 7½–10 | 10.9 |
| IV quarter, 1977 | 7 –10 | |
| I quarter, 1978 | 7 – 9½ | |
| II quarter, 1978 | 7 – 9½ | |
| M3 (currency, demand deposits, consumer type time and savings deposits at commercial banks and deposits at thrift institutions): | | |
| March 1976 | 10 –12 | 12.2 |
| II quarter, 1976 | 10 –12 | 12.0 |
| III quarter, 1976 | 9 –12 | 11.5 |
| IV quarter, 1976 | 9 –12 | 12.8 |
| I quarter, 1977 | 9 –12 | 12.8 |
| II quarter, 1977 | 9 –11 | 12.3 |
| III quarter, 1977 | 9 –11½ | 12.6 |
| IV quarter, 1977 | 8½–11½ | |
| I quarter, 1978 | 8½–11 | |
| II quarter, 1978 | 8½–11 | |

Note: Actual growth rate data are based on money supply series of the Board of Governors of the Federal Reserve System as of October 1977.

Source: Prepared by Congressional Research Service. Data source: Data Resources, Inc.

This section includes separate discussions of several well-defined limitations associated with the existing system: the narrow focus of the information it generates; difficulties in identifying changes in monetary growth objectives in successive quarterly announcements; and differences in reporting periods for monetary growth objectives and for fiscal policy. In each case, an example of a modification for overcoming the limitation associated with the current reporting system is discussed. The full range of modifications which could be applied to the reporting system is considerable. Among the possibilities are changes judged to be most significant for congressional oversight or policy planning or judged to be the easiest to introduce without placing unintended constraints on policymakers. The final part of this section examines several additional aspects of the system which influence the nature of the policy information it generates for the Congress.

#### A. THE EXTENT OF INFORMATION ABOUT MONETARY POLICY GENERATED BY THE SYSTEM

As outlined in the second section of this paper, monetary aggregate growth rates constitute one of a number of elements which comprise monetary policy. Given the monetary measure on which the reporting system is based, monetary aggregate growth rates, the system could be altered in a variety of ways to generate more extensive information about monetary policy.

One series of possible modifications to extend the range of information conveyed in FRS announcements would arise from a requirement that the FRS report on its perceptions regarding the implications of announced growth rates for various aspects of the economy. This information could be used by the Congress in reviewing monetary policy and in formulating fiscal policy. Among various alternatives for establishing such a requirement would be to call for this information in general terms or to state more specifically the nature of information desired. Information pertaining to the extent to which announced monetary growth rates are expected to influence the economy might include projections for the growth rate of gross national product, changes in prices and the level of unemployment. Information pertaining to the manner in which monetary growth rates are expected to influence the economy might include projections for the velocity of money and interest rates together with statements regarding the manner in which such intermediate elements of monetary policy, including monetary growth rates, are expected to influence the growth rate of gross national product, changes in prices and the level of unemployment.

#### B. COMPARABILITY OF SUCCESSIVELY ANNOUNCED MONETARY GROWTH RATES

Each successive quarterly FRS announcement satisfies provisions of H. Con. Res. 133 by indicating plans for monetary aggregate growth rate ranges for the year beginning with the most recently completed quarter. This information, by itself, is of limited usefulness in informing the Congress about the status of FRS monetary growth objectives over time. Meaningful comparisons of growth rates announced in successive quarters are difficult to achieve and, as a result, it is not easy to detect or characterize the size and direction of changes in FRS monetary growth objectives from one quarterly announcement to another. In fact, it is even possible to misinterpret FRS intentions.

The basic problems in comparing successive growth rate ranges is that each quarterly announcement presents growth rates which apply to a different base period or starting point. With the passage of each quarter, there is a new announcement indicating growth rate ranges which extend for a one year period from the quarter most recently completed. Successive growth rate ranges, by themselves, do not convey information about values of monetary aggregates in the successive base periods to which the growth rates apply.

An illustration of the necessity of consulting both growth rates and the size of mone-

tary aggregates in base periods to determine the size and direction of changes in monetary growth objectives may be constructed as follows. Consider alternative cases in which the FRS retains the same growth rate ranges for the one year periods following two successive base quarters. If the size of the stock of money does not change in the two successive base quarters, there will be no difference in the stock of money corresponding to either the upper or lower bounds of the objective ranges for the ends of the one year periods following the two successive base quarters. If stock of money increases by 5 percent from the first base quarter to the next, there will be a 5 percent increase in the stock of money corresponding to both the upper and lower bounds of the two successive objective ranges. These results hold independently of the particular growth rates retained by the FRS in the two successive announcements. In the absence of information on changes in the stock of money between the base quarters, knowledge of the growth rate ranges would not have revealed the different implications for objective ranges for money supply in the alternative situations.

If the actual growth rates of monetary aggregates over successive quarters to which a series of projected growth rate ranges apply were stable, then the influence of changes in monetary aggregate in base quarters on relationships among successive objective ranges would be fixed. A stable growth rate of 4 percent for M1 over successive base quarters would result in increases of 4 percent in upper and lower bounds of successive objective ranges, subject to changes in projected growth rates. The actual growth rates of monetary aggregates, however, have not been stable. Since the initiation of the quarterly announcements, M1 has increased in successive quarters at annual rates ranging from 2.5 percent to 9.6 percent. The largest increases have occurred in the most recent quarters. Between the first and second quarters of 1977, M1 increased at an annual rate of 8.7 percent. In announcing the growth rate range for M1 for the period beginning with the second quarter of 1977, the FRS did not change the projected upper bound growth rate for M1 but partially offset the impact of the base period change in M1 on its newly established objective range by decreasing the projected lower bound growth rate for M1. Between the second and third quarters of 1977, M1 increased at an annual rate of 9.6 percent. Projected upper and lower bounds growth rates for the period beginning with the third quarter of 1977 have not been announced at the time of release for this paper.

One method of overcoming the difficulty of detecting the size and direction of changes in long-term monetary growth objectives associated with the current reporting system is to require that quarterly announcements include a statement indicating the relationship of each newly announced objective range to the previously announced range. This information could be expressed in terms of annualized rates of change for the upper and lower bounds of the ranges. Under such a requirement, the Congress would be directly informed about the direction and the size of change, if any, that the FRS makes in the upper and lower ends of the objective range for each monetary aggregate.

Under the current reporting system, the FRS announced its objective range for M1 for the year ending with the second quarter of 1978 in terms of the growth rate range of 4 percent to 6½ percent. With the additional reporting requirement concerning the relationship of each new objective range with the previous one, the FRS would have indicated that it was increasing the upper end of the objective range for M1 by 8.7 percent on an annual basis from the upper end of the previous objective range applicable to the first quarter of 1978. The 8.7 percent increase directly reflects the 8.7 percent annual rate of change in M1 from the previous base quarter to the new base quarter. The upper bound growth rate announced for periods beginning with these two base quarters remained unchanged and was 6.5 percent. The FRS also would have indicated that the lower end of the objective range for M1 for the second quarter of 1978 represented an increase of about 6.4 percent on an annual basis from the lower end of its objective range for the first quarter of 1978. The 6.4 percent increase reflects the 8.7 percent annual rate of change in M1 from the previous base quarter to the new base quarter and an offsetting change arising from a decrease in the announced lower bound growth rate. The rate applicable to M1 in the previous quarter was 4.5 percent and the rate applicable to M1 in the new base quarter was decreased to 4.0 percent.

C. NONCOMPATIBILITY OF PROJECTION PERIODS FOR MONETARY GROWTH RATES AND FISCAL POLICY PERIODS

The preamble of H. Con. Res. 133 indicates the general status of unemployment as well as trends in gross national product and inflation as of the time Congress adopted the resolution. It further states that "the economy's performance in part is affected by changes in the rate of growth of the monetary and credit aggregates." Fiscal policy, as established by congressional budgetary decisions on Government expenditures and revenues, also influences the performance of the economy. In fact, the Employment Act of 1946 declares that national economic objectives of the Congress include the promotion of "maximum employment, production and purchasing power."

The coordination of monetary and fiscal policies in striving toward a fully-employed stable economy may be facilitated by information generated by the existing reporting system for growth rates of monetary aggregates. Announcements regarding long-term monetary growth policy provide some insight into monetary policy intentions for a period of time extending into at least part of an upcoming fiscal year. The Congress may consult these announcements in the course of determining fiscal policy for an approaching fiscal year or in altering policies which are currently in effect. The FRS may also take into consideration available information on fiscal policies for the current and upcoming fiscal years in formulating its long-term monetary policy. The FRS has information about the fiscal policy for the year in progress, proposals under consideration, if any, for changing that policy and preliminary information on basic budgetary objectives for the upcoming fiscal year as reflected in the budget submitted to the Congress by the President and in a series of congressional budget resolutions.

Brief reference to information availability at particular points in time demonstrate variability in the nature and potential usefulness of information about monetary and fiscal policies which flow reciprocally between the two different sets of policy makers. In February 1977, the FRS announced monetary growth rates for the period beginning with the first quarter of fiscal year 1977 and extending through the first quarter of fiscal year 1978. At the time the FRS released that announcement, it had knowledge of the budget for the fiscal year in progress and proposals for changing that budget. It also had preliminary information on fiscal policy for fiscal year 1978 in the form of the budget presented to the Congress by the President. In May 1977, the FRS made the next quarterly announcement which pertained to a period extending through the second quarter of fiscal year 1978. Shortly thereafter, the Congress adopted its first budget resolution reflecting its fiscal policy planning at that stage for the full fiscal year 1978.

The congressional budget process and the reporting system for monetary rates generate information concerning the future course of monetary and fiscal policies which differs in two principal aspects having a bearing on the potential usefulness of that information for the coordination of monetary and fiscal policies. Information relating to policy in a forthcoming fiscal year, in each case, pertains to a one year period but with different commencing dates for monetary and fiscal policies. The one year periods addressed in quarterly announcements of monetary growth rates begin at different points in time with each announcement, but they are always periods which terminate before the close of an upcoming fiscal year. A second difference is that information on future fiscal policy is generated and revised during the process of arriving at a policy position for implementation in the future whereas information on monetary growth rates reflects established plans and objectives. Unlike announced monetary growth rates, information on future fiscal policy is regarded as preliminary in the sense that it is generally recognized that budget estimates become more reliable as a fiscal year approaches and reflect final agreement at some time very near the start of a fiscal year. In both cases, a policy commitment is subject to change during the year of implementation.

A requirement for specifying monetary growth rate objectives on a fiscal year basis could facilitate the coordination of monetary and fiscal policies by ensuring a common planning horizon. Such a requirement could involve several changes from practices associated with the current system. Under the current system, monetary growth rate announcements pertain to one year periods which always include one or more quarters for which fiscal policy has already been determined. If the FRS were required to report for an upcoming fiscal year, it would be setting objectives encompassing a full one year period for which information on fiscal policy would be preliminary. Accordingly, the FRS might react to the tentative nature of this information by increasing the spread between the upper and lower growth rates which define the objective range for each monetary aggregate. The FRS could, of course, narrow and otherwise reset its objective ranges for monetary aggregates in successive quarterly announcements made as an upcoming fiscal year approaches.

Under a fiscal year reporting system, there would be one set of objective ranges each year against which to monitor actual changes in monetary aggregates. Under the current arrangement, there are four such sets of objective ranges each year.

D. ADDITIONAL LIMITATIONS OF THE REPORTING SYSTEM

Additional limitations of the current reporting system in generating information about monetary growth objectives for the Congress include those which arise, in part, from factors over which the FRS does not have complete control. When the FRS announces growth rate ranges for monetary aggregates based on the most recently completed quarter, it does not know with certainty the actual size of monetary aggregates in that base quarter. The FRS revises its data on monetary aggregates as it obtains reports on monetary liabilities of non-member banks and uses this information in place of estimates. These revisions have resulted in changes of as much as two tenths of a percentage point in previously calculated one year growth rates for M1.

The size of the announced one year growth rate ranges is usually about two to three percentage points between the upper and

lower rates. Narrower ranges would provide the Congress with more precise indications of FRS objectives. It is possible that the FRS announces ranges sufficiently large to allow for some latitude for modifying its growth rate policies during each announcement period. There are other considerations, however, which may fully explain the FRS's reluctance to report narrower ranges. The FRS is not the only economic unit whose activities influence the growth rates of monetary aggregates. The behavior of depository institutions and the public affect the composition of monetary liabilities issued—currency, demand and savings deposits. With the same policy actions of the FRS, alternative choices among these monetary liabilities by financial institutions and the public result in different growth rates for the various monetary aggregates. The FRS could improve its control over the growth rate of a particular monetary aggregate by increasing its commitment to offset variability in behavior of financial institutions and the public. Implicit in such an effort to narrow an announced growth rate range is diminished FRS freedom to control other monetary aggregates or to influence interest rates.

V. SUMMARY

Following provisions of H. Con. Res. 133 of the 94th Congress, the FRS has reported "objectives and plans with respect to the ranges of growth or diminution of monetary and credit aggregates in the upcoming 12 months" at successive quarterly congressional hearings. Monetary growth rates are generally considered to be among the significant determinants, directly or indirectly, of general economic conditions. Nevertheless, they represent but one of a number of elements of monetary policy. Other elements include factors which affect the attainment of these growth rates and factors which, together with actual monetary growth rates, influence general economic conditions.

The reporting system which has evolved for FRS announcements of growth rate objectives include some specific practices for which language of the concurrent resolution gave only general guidance. These include specific definitions of monetary aggregates, the size of the spread between upper and lower growth rates used to define projected ranges, and the interpretation that announced growth ranges set year-end objectives rather than objectives for the duration of each announcement year.

Well-defined limitations of the system include its narrow focus with respect to the full range of elements constituting monetary policy, difficulties in detecting the size and direction of changes in monetary growth objectives from statements generated under the system and the use of reporting periods different from those employed in setting fiscal policy. A number of modifications addressing particular aspects of the system are possible. Examples of such modifications include introducing requirements that the FRS report on implications of announced growth rates, indicate relationships among successively announced objective ranges and announced objective ranges on a fiscal year basis.

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By Mr. BARTLETT:

S. 2284. A bill to amend section 3015 (c) of title 10, United States Code, to require that the Chief of National Guard Bureau hold the grade of lieutenant general; to the Committee on Armed Services.

Mr. BARTLETT. Mr. President, today I am introducing legislation, with Senator HENRY BELLMON as cosponsor, which will require that the position of Chief, National Guard Bureau, currently assigned the rank of major general, be assigned the rank of lieutenant general.

The position, Chief of the National Guard Bureau, is a demanding one, entailing many diverse duties such as overseeing command, administration, logistics, construction, and training. The Chief is directly responsible for the preparation and continual readiness of 400,000 Army National Guard and 97,000 Air National Guard members. The full-time civil service and various State employees he directs consist of a much larger work force than that assigned to any other major general.

At the present time, the Chief of the National Guard Bureau shares the same rank, major general, as the Directors of the Army and Air Force National Guards, even though his responsibilities are in excess of theirs. In addition, all the key personnel with whom the Chief must deal on policy and budget matters are senior to the Chief, either in military grade or civilian equivalent. The Chief occupies the only reserve position that must deal directly with both the Secretary of the Air Force and the Secretary of the Army.

For these reasons, I urge the Senate to adopt legislation upgrading the position of Chief, National Guard Bureau, from the reserve grade of major general to the reserve grade of lieutenant general.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2284

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the third sentence of section 3015(c) of title 10, United States Code, is amended by striking out "major general" and inserting in lieu thereof "lieutenant general".

SEC. 2. The amendment made by the first section of this Act shall become effective on the first day of the second calendar month following the month in which this Act is enacted.

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By Mr. WEICKER:

S. 2285. A bill to establish a program for the enhancement of the United States capability in manned undersea science and technology; to the Committee on Commerce, Science, and Transportation.

Mr. WEICKER. Mr. President, today I am pleased to introduce the "National Manned Undersea Science and Technology Act." This legislation addresses the future needs of the Nation in terms of man's capability to work, conduct research, and live in the sea efficiently and safely.

This Nation has approached a crossroad; on one side its citizens, enjoying a high standard of living, is demanding more and more of its natural resources. On the other side is the dwindling availability of these resources. Our land-based supplies of oil and minerals will be exhausted in a few years at the present rate of consumption.

The logical step for us to take is strict conservation of our remaining resources, but this only gives us a little time and is only part of the answer, we must also look to other possible sources. For the United States, the oceans are the only place to turn. I believe that the oceans can provide vast amounts of resources such as energy, food, minerals as well as becoming more and more important for recreational purposes. Submerged lands adjacent to the United States contain vast reserves of oil and gas; its fish stocks are over 10 percent of the worlds supply, and is already an important source of protein for several nations. Manganese nodules that could provide the world's needs of copper, nickel, manganese, and cobalt cover the deep seabed of the Pacific Ocean; and uranium estimated to be worth billions was recently discovered in the Black Sea.

This is just the beginning.

The oceans are virtually unexplored and we really have no idea how much resources they hold. More importantly, we still do not have sufficient knowledge to manage any of the ocean resources properly, including our fisheries which have been studied for years.

The United States, therefore, must accellerate its involvement in the oceans; exploration and marine scientific studies must increase to reveal the knowledge we will need to reap the benefits of the oceans, as well as protect its resources.

I believe that we must do all that is possible to put the United States in the lead in ocean affairs, starting with a strong national oceans policy and an appropriate organizational structure to carry out the mandates of the policy.

One area that holds great promise for increasing our knowledge of all aspects of the oceans is manned undersea activities.

Men working and studying the oceans in situ in past years have demonstrated their value and potential for increasing our understanding of such things as fish behavior, resource assessment, effects of pollutants on marine life, artificial and natural reefs, and gear research.

Submersibles have been used to study the deep ocean and help formulate modern theories on plate tectonics and continental drift.

Conventional techniques for exploring and studying the oceans, using shipboard equipment and instrumentation is the most efficient way of gaining knowledge of the sea. However, the presence of scientists that actually go beneath the surface in submarines or diving gear adds a new dimension. Men with the capability to see, touch, manipulate and think reveals the ocean environment and its resources in human terms. A case in point; an experimental net dragged through the water column from a surface ship can reveal a vast array of marine species. There is much that the scientist can learn from the life forms in the net such as species count and relative abundance but not the order of life present before the net captured the organisms. Such information as interrelationships of the organisms and their relationship to the overall ecosystem, important information for future management, could not be extrapolated from

the net. Scientists on the other hand could explain the order in which these life forms lived.

Manned undersea science was started in earnest some 25 years ago when marine biologists and oceanographers made short and shallow forays under water using simple diving gear.

Since then, sophisticated submersibles, habitats, and diving bells have been developed to extend man's capabilities in the sea.

During the early 1960's this development peaked; submersibles reached the deepest part of the ocean and divers were using new techniques to live and work on the ocean floor. Man, at this point was truly on the verge of making great strides in undersea exploration and research promising to give marine scientists powerful new tools for their work. By the end of the 1960's, however, funding started to wane. Increased costs, nationwide economic problems and poor planning most likely contributed to the slow-down in undersea activities.

The National Oceanic and Atmospheric Administration (NOAA) has been the lead civilian organization for undersea science and technology. Over the past 5 years its budget for these activities has been level funded at about $1 million per year, hardly enough to keep any of its programs alive. This level funding was in the face of substantial increases in funding for NOAA's overall oceans programs.

Even though the funding for manned undersea science and technology has been meager, much has been learned over the past few years, and many people have experienced first hand the great potential of working first-hand under the sea. No fewer than 500 people from Federal agencies, universities and foundations have now lived for periods up to 2 weeks on the ocean floor, most of these accomplishing scientific tasks while gaining experience. Much has been learned to increase the efficiency of working under the sea so that at least in warm waters scientists are now able to continuously work in moderate depths up to 10 hours per day; as much or more than the average office worker here in Washington.

Mr. President, I believe that the time has come for this Nation to expand its commitments to manned undersea activities, which will be so immensely important to us in the very near future.

The United States must be capable of completely understanding every aspect of the oceans in order to protect its interests. It must wisely utilize and conserve the ocean environment and resources.

This bill will provide the leadership and funding necessary to fill an integral part of our efforts to meet our Nation's interest in the oceans.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2285

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Manned Undersea Science and Technology Act".

SEC. 2. Congressional Findings and Purposes.

(a) Findings.—The Congress finds and declares the following:

(1) the living and non-living resources of the oceans are becoming increasingly important to the United States in terms of food, energy, transportation, weather prediction and recreation;

(2) the present level of knowledge of the marine environment and its resources is inadequate to properly manage the general welfare, security, and economy of the United States as required in an era of diminishing resources;

(3) present scientific and technological techniques must be advanced to effectively achieve a full understanding of the marine environment and its resources;

(4) manned undersea techniques have demonstrated usefulness as a means to acquire knowledge of the marine environment and its resources that is not obtainable by conventional techniques;

(5) a comprehensive and long-range program of development, support, coordination, safety and management of manned undersea operations on a national scale is essential to provide a focus for safe and effective undersea scientific studies and marine resource development; and

(6) a better understanding of the physiological and psychological effects of the hyperbaric undersea environment upon man is imperative to ensure safe and efficient manned undersea operations.

(b) Purposes.—It is therefore declared to be the purposes of Congress in this Act:

(1) to enhance the Nation's capability to assess, conserve, develop, manage and utilize the living and non-living resources of the oceans by the expanded use of manned undersea science and technology;

(2) to establish and implement a coordinated program for development of manned undersea science and technology involving projects with Federal, State, and local agencies, institutions, universities, and industry;

(3) to preserve the leadership role of the United States in civilian manned undersea science and technology;

(4) to develop those undersea capabilities of man necessary to further increase knowledge of the marine environment and its resources in order to support the assessment, conservation, development, use, and management of marine living and non-living resources; and

(5) to acquire and disseminate technological and scientific information related to advances in undersea capabilities.

(6) to cooperate in international manned undersea science and technology efforts when in the best interest of the Nation.

SEC. 3. Definitions

As used in this Act:

(1) "citizen of the United States" means (A) an individual who is a citizen of the United States or of one of its possessions, or (B) a partnership of which each member is such an individual, or (C) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions;

(2) "manned undersea facilities" means any structure or appurtenance used to carry or house personnel and provide life subsistence, mobility or work capability beneath the sea, including mobile submarines, mobile semi-fixed or fixed habitats, and diving bells;

(3) "person" includes an individual, a public or private corporation, a partnership or other association, or a Federal, State, or local government agency;

(4) "support facilities" means all fixed or floating platforms or other appurtenance used to support undersea activities including:

(A) vessels;
(B) barges;
(C) semi-submersibles;
(D) shore stations;
(E) structures fixed to the bottom;
(F) decompression chambers; and
(G) all related equipment.

(5) "undersea techniques" means any method specifically used to accomplish an objective related to manned undersea programs from an undersea position; and

(6) "Secretary" means the Secretary of Commerce.

SEC. 4. National Manned Undersea Science and Technology Program.

(a) The Secretary shall within 90 days after the enactment of this Act establish a National Manned Undersea Science and Technology Program to enhance the nation's capability to support marine science and marine resource development through the use of manned undersea techniques;

(b) The Secretary shall invite members of any Federal or State government, private institution, universities, and industry to participate in the preparation of guidelines for the program.

(c) Such program shall address and conform to the policies of the nation to conserve, protect, and utilize the marine environment in terms of food, energy, pollution assessment and control, transportation, recreation, minerals and other basic scientific and technical knowledge.

(d) Such program shall be long-range and shall include planning, management, coordination, financial assistance, and human performance objectives so that the following criteria are met:

(1) undersea technology developments to enhance man's capability to work in the sea;

(2) safety, efficiency and cost effectiveness of working under the sea;

(3) participation by Federal, non-Federal, industry and private organizations and persons shall be encouraged;

(4) consideration shall be given to all modes of manned undersea operations in order to accomplish the provisions of this Act: including:

(A) manned undersea facilities;
(B) self contained dividing apparatus, including rebreathing equipment;
(C) surface supplied diving apparatus;
(D) diver delivery and transportation vehicles; and

(5) undersea science techniques shall augment or supplement conventional science techniques when possible and practical.

SEC. 5. Grants and Contracts.

(a) The Secretary is authorized to grant funds and enter into contracts with any person who is a citizen of the United States in order to carry out the provisions of this Act.

(b) Such Federal grants and contracts may cover up to 100 percent of the total cost of proposed projects and programs pursuant to the provisions of section 4 and other rules and regulations promulgated by the Secretary.

(c) Federal grants and contracts shall address the following:

(1) leasing, rehabilitation, development, purchasing, testing, construction and operation of manned undersea facilities;

(2) leasing, rehabilitation, development, purchasing testing, construction and operation of support facilities;

(3) purchasing or leasing and development, testing, and operation of instrumentation and specialized equipment for activities related to undersea science;

(4) purchasing, leasing, development, testing and operation of diving equipment;

(5) studies to increase the efficiency and safety of diving, involving but not not limited to:

(A) all physiological parameters associated with diving and working under pressure;

(B) development and improvement of decompression and excursion tables;

(C) environmental constraints of working in the sea;

(D) psychological constraints of working in the sea; and

(6) purchasing, development, testing, and operation of instrumentation and specialized equipment for monitoring physiological parameters and for other purposes related to the general safety of men working in the sea.

SEC. 6. Administrative Office.

The Secretary shall designate or establish one office in the Department of Commerce to administer the provisions of this Act and any related activities of the Department.

SEC. 7. Review.

(a) The Secretary shall within 60 days after the enactment of this Act provide for a biannual review of all programs pursuant to this Act.

(b) Such review shall address the following:

(1) scientific achievement;

(2) technological advancement;

(3) cost effectiveness and efficiency of technological parameters; and

(4) safety;

(c) The Secretary shall invite marine and other scientists and engineers from Federal and State governments, private institutions, universities and industry to participate in the review process.

SEC. 8. Authorization for Appropriations.

(a) There is authorized to be appropriated to the Secretary to carry out the provisions of this Act sums not to exceed the following:

(1) $5,000,000 for the fiscal year ending September 30, 1979;

(2) $10,000,000 for the fiscal year ending September 30, 1980;

(3) $20,000,000 for the fiscal year ending September 30, 1981;

(4) $25,000,000 for the fiscal year ending September 30, 1982; and

(5) $30,000,000 for the fiscal year ending September 30, 1983.

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By Mr. HANSEN:

S. 2286. A bill providing that the excess land provisions of Federal reclamation laws shall not apply to certain land receiving a supplemental water supply from the Shoshone project, Wyoming; to the Committee on Energy and Natural Resources.

Mr. HANSEN. Mr. President, I introduce legislation to exempt from the excess land provisions of Federal reclamation law the Elk Water Users' Association and the Lovell Irrigation District in the State of Wyoming.

The circumstances surrounding the origins of these two companies make a particularly good case for fashioning an exception from the 160-acre limitation.

Both entities were operating irrigation companies and had a fully developed agricultural economy before their July 13, 1965, contractual agreement with the Bureau of Reclamation. In fact, in the case of Elk Water Users' Association, the first lands were brought under irrigation with the construction of the Rhone Ditch possibly as early as 1901. A permit was granted by the Wyoming State engineer for extension of the Rhone ditch in January 1903, and in January 1904, the Elk Canal Co. was incorporated in order to take over and enlarge the Rhone ditch.

The Lovell Irrigation District had similar early development, with permits being issued around 1903, by early pioneers assisting one another without Government financial assistance or intervention in the delivery of water onto potentially irrigable lands. It was not until 1909 that the earliest units of the nearby Shoshone project were developed under the Bureau of Reclamation, 8 years after the initiation of the Elk Water Users' Association water delivery.

Long after these early developments, the Elk Water Users' Association and the Lovell Irrigation District became involved in attempts by the Bureau of Reclamation projects in the vicinity to adjudicate water rights on the Shoshone River. These neighboring projects sought to establish a water right priority dating back to the old 1899 Cody-Salsbury permit.

In negotiations among the several irrigation units to validate and establish water priorities, a contract for supplemental water was offered to Elk Water Users' Association and the Lovell Irrigation District. As an inducement to accept the Bureau's offer, Elk and Lowell were advised that if they were successful in their efforts, the Bureau projects would receive a 1925 priority date, thus causing Wyoming residents to be predated by downstream, out-of-State permits. Elk and Lovell were not only offered some right to storage water but were assured that any further development by the Bureau of Reclamation on projects along the Shoshone River would be under a priority later than their own.

The Elk Water Users' Association and the Lovell Irrigation District accepted the contract for supplemental water for 4,261 acres for Elk—of which a little less than 3,000 are actually under irrigation—and 10,300 acres for Lovell not to exceed 4.7 acre-feet per acre per year. By entering this contract, Elk and Lovell became subject to reclamation law acreage limitations which at the time of the signing of the contract had been widely disregarded.

There are not many farmers in either of the two irrigation districts who have excess acreages. Of the 118 farmers receiving delivery, only 12 to 14 would be directly affected. However, those who are affected must either dispose or agree to dispose of the excess acreages or not receive any of the supplemental water for such acreages.

While Bureau of Reclamation records indicate that the district and the association have not been in violation of the excess land provisions to date, water to serve a landowner's excess lands which must come from his natural flow rights may not be adequate to provide his requirements during some years or during certain periods of every year. Thus, if reclamation project water were used on such excess lands, such use would constitute a violation.

The point is, Mr. President, that the facilities, diversion units, canals, and structures of the Elk Water Users' Association and the Lovell Irrigation District were not built by taxpayers' money or under the Bureau of Reclamation. These were rather the product of pioneer families working together independently for their own well-being. The contract with the Bureau for excess water is for a set and determined number of acres on an "if, as, and when available basis." It should not be a concern of the Bureau which individuals own the land or how much. These lands were not developed or brought under irrigation by the Bureau and it is late in their history for the Bureau to be dictating how they should be operated.

An exemption from the excess land provisions would not affect the quantity of reclamation project water available to the association and the district under their contract, but the restriction on the use of the reclamation project water supply available to them for excess lands would be removed.

Mr. President, the Bureau of Reclamation has advised my office that, on a number of occasions, Congress has granted exemptions from the 160 acre limitation to projects with a long history of irrigation and a fully developed agricultural economy prior to the availability of a supplemental water supply from a reclamation project. To my way of thinking, Elk Water Users' Association and the Lovell Irrigation District are such projects and thus deserve the same type of exemption as granted in the past.

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By Mr. BURDICK:

S. 2287. A bill to amend title VII of the Public Health Service Act to provide for the making of grants to schools of medicine to assist them in the establishment and operation of educational programs in geriatrics; to the Committee on Human Resources.

Mr. BURDICK. Mr. President, along with my colleagues, Senators INOUYE, HUMPHREY, MELCHER, RANDOLPH, LEAHY, HASKELL, CANNON, MORGAN, YOUNG, and HATHAWAY, I am pleased to introduce legislation to authorize assistance to U.S. medical schools to encourage the development of programs of geriatric medicine.

The training medical students receive in geriatric medicine today is minimal at best. Yet we are an increasingly older population, and the problems of aging are accounting for a growing portion of our medical dollars. While we cannot stop the process of aging, a more detailed knowledge of gerontology and geriatric medicine could prevent much of the needless suffering and institutionalization our elderly citizens are subject to today.

The bill we are introducing today authorizes $3 million per year to develop programs of geriatric education in our medical schools. Since physicians are an integral part of our health delivery system, the impact of improved geriatric education should be felt throughout the medical system, and result in better and more effective medical care for the elderly at all levels.

This idea is not a new one. Former Senator Frank Moss introduced similar legislation in the last Congress and the National Advisory Council on Geriatric Medical Programs, a panal of distinguished physicians, has advocated such a plan for several years. The chairman of that Council, who is also a professor

at the University of North Dakota Medical School, has asked me to introduce this measure at this time, and I am delighted to do so.

To more fully explain the need and purpose of this bill, I would like to include in the RECORD the position paper of the National Advisory Council on geriatric medical programs. This very concisely sums up the problem and explains why programs of geriatric medicine need to be encouraged. I ask unanimous consent that the RECORD include at this time the names of the founding members of the Council, their position paper, and a copy of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2287

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 788 of the Public Health Service Act (42 U.S.C. 295g–8) is amended by adding at the end thereof the following new subsection:

"(h) (1) The Secretary may make grants to assist medical schools in the establishment and operation, within such schools, of educational programs in geriatrics.

"(2) Grants under this section shall be made to schools of medicine in an amount not less than an amount necessary to carry out such program for a period of not less than 5 years.

"(3) Any grant under this section shall be made upon such terms and subject to such conditions as the Secretary shall prescribe.

"(4) There is authorized to be appropriated to carry out the purposes of this subsection $3,000,000 for the fiscal year ending September 30, 1978, and for each of the next 4 succeeding fiscal years.".

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FOUNDING MEMBERS NATIONAL ADVISORY COUNCIL ON GERIATRIC MEDICAL PROGRAMS

Robert L. Grissom, M.D., Professor of Medicine, University of Nebraska College of Medicine, Omaha, Nebraska.

Alexander Leaf, M.D., Jackson Professor of Clinical Medicine, Harvard Medical School; Chief of Medical Services, Massachusetts General Hospital, Boston, Massachusetts.

Russell V. Lee, M.D., Consultant, Palo Alto Clinic, Palo Alto, California.

Henry M. Lemon, M.D., Professor of Medicine, Head, Section of Oncology, University of Nebraska College of Medicine, Omaha, Nebraska.

Abraham Lilienfield, M.D., Professor and Chairman, Department of Epidemiology, The Johns Hopkins University School of Hygiene and Public Health, Baltimore, Maryland.

Ephraim Lisansky, M.D., Professor of Medicine, University of Maryland School of Medicine, Baltimore, Maryland.

Sherman M. Mellinkoff, M.D., Dean, School of Medicine, University of California, Los Angeles (UCLA), Los Angeles, California.

Theodore R. Reiff, M.D. (Chairman), Professor of Medicine, Head, Division of Geriatric Medicine, Director of Health Education, University of North Dakota School of Medicine, Grand Forks, North Dakota.

Eugene Towbin, M.D., Ph. D., Professor of Medicine, Associate Dean, University of Arkansas School of Medicine, Little Rock, Arkansas.

Irving S. Wright, M.D., Professor Emeritus of Medicine, Cornell University Medical College, New York, New York.

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POSITION PAPER NATIONAL ADVISORY COUNCIL ON GERIATRIC MEDICAL PROGRAMS

By the end of this century there will be over 25 million people in the United States over the age of 64. Many of these will have multiple and complex interacting illnesses that require much more care per capita than younger patients. This care requires expertly trained physicians.

At the present time the medical input to a good part of the geriatric institutions in this country is quantitatively as well as qualitatively inadequate. This is not to say that there is not involvement by competent and interested physicians, but it is not an overstatement to say it is rarely sufficient.

It is generally acknowledgd that the medical care of older people in this country leaves much to be desired. Geriatric medicine is, to a large extent, a neglected area of medical education and allied health professional training.

Geriatric medicine has not received the stature it should have in this country's medical training programs. Understandably this makes it exceedingly difficult to attract physicians in training to work in this area.

Actually geriatric medicine provides an excellent opportunity for the in-depth study of human disease and for the training of physicians and allied health care personnel.

Steps to provide solutions to the inadequacy of geriatric medical care are urgently needed. Attention should be directed to developing high caliber programs in geriatric medicine that will serve as models of excellence. These programs should be of such caliber as to attract a significant body of medical students, young physicians, and allied health personnel.

Excellence in geriatric medicine, like any other clinical discipline, must rest on a solid scientific foundation. It is essential that training programs in geriatric medicine include fundamental research in the problems of the aged as well as in the process of aging.

With the National Institute on Aging established within the National Institutes of Health, the time is opportune to support the development of programs in geriatric medicine in the medical institutions of this country.

PROPOSAL

The National Advisory Council on geriatric medical programs encourages the medical schools in the United States to establish interdisciplinary programs in geriatric medicine. These programs should serve as the basis for geriatric educational experience at all levels of education and training for physicians and allied health care professionals.

Mr. HATHAWAY. Mr. President, it is my pleasure to join with my distinguished colleagues in introducing S. 2287, a bill to provide grants to medical schools for educational programs in geriatrics.

Today, one in every nine persons in the United States is 65 years of age or older. This equals some 23 million individuals, and the number is rapidly growing. Further, the older population is expected to increase 40 percent to 31 million by the year 2000.

At the same time, our senior population has been growing, our ability to assess the health needs of this population has remained limited. Our training of medical students in geriatrics is minimal at best. Many physicians and other health profesisonals are not currently equipped to handle the problems of senior citizens. What we need is accurate diagnosis, sensitive care and effective treatment. Too often, we have misdiagnosis, needless suffering and unnecessary institutionalization.

The legislation we are proposing would help to remedy the situation by encouraging medical schools to educate their students in geriatrics. This will result in greater exposure and increased sensitivity of physicians to issues related to aging. To accomplish this goal, the bill authorizes $3 million per year for 5 years for the development and operation of geriatrics programs.

The need for such training is clear. Even physicians and medical students themselves have acknowledged it. In a 1976 survey of physicians by Impact, an American Medical Association periodical, 75 percent of practicing physicians agreed that M.D.'s need greater training in geriatrics. Furthermore, the Student American Medical Association has called for the incorporation of courses in geriatric medicine within the medical school curriculum.

The effect of such training will extend beyond the doctors themselves. Physicians are such an integral part of our health system that their improved geriatric education would have a positive impact throughout the health care delivery system, resulting in better and more effective care of elderly people at all levels.

Further, courses in geriatric education will motivate students to conduct research in gerontology. If we are to have a good, responsible health delivery system, we must first have an accurate and realistic assessment of the problems. By expanding our knowledge of the aging process, we will be able to respond properly and more humanely to the problems associated with advancing age.

At the same time, we should be able to reduce the skyrocketing costs of health care for older Americans.

In 1976 we as a nation spent $140 billion on health care. Of this, approximately 50 percent went for chronic diseases. About one-third of all acute hospital beds were occupied by senior citizens. There were well over 1 million patients in nursing homes. And one-quarter of all prescriptions were purchased by the elderly. Inappropriate service delivery, resulting from inadequate knowledge and incomplete training of health professionals is indeed costly.

Proper training of physicians in geriatric medicine will help to reduce the financial burden imposed by inappropriate health care and improve the quality of life for our senior citizens. This legislation is a step in the right direction, and most worthy of our support. I shall look forward to considering the bill when it is referred to the Health and Scientific Research Subcommittee on which I serve.

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By Mr. HEINZ:

S. 2288. A bill to establish, within the medicare system, a special program of long-term care services for individuals covered under part B of medicare, receiving supplementary security income benefits, or eligible to enroll under part B of medicare; to establish special Federal, and provide for the establishment of such special programs; and for other programs; to the Committee on Finance.

Mr. HEINZ. Mr. President, the legislation which I am proposing today would provide for a major overhaul of our

long-term health care system. This proposal, the Long Term Health Care Amendments of 1977, could serve as an important first step in making this Nation's health care system truly responsive to the unique needs of the elderly.

We, as a people, are growing older and increasingly dependent upon long-term health care services. Scientific breakthroughs, better diet, and improved living conditions have all served to increase the lifespan of the American people. It is now predicted that by the year 2000, which is only 23 years away, 30 million Americans—about 9 percent of our population—will be age 65 or over. This is in sharp contrast to the turn of the century, when only 1 in every 35 people lived to the age of 65. And as the life expectancy has increased, the extended family has sharply declined, forcing an ever-increasing number of older Americans to turn to alternative, often institutional, long-term health care programs.

At present, there are over 22,000 long-term care facilities in this country, with admissions exceeding 1 million, a figure expected to double within the next two decades. Over 5 percent of our elderly are now in need of institutionalized care, while another 25 percent require non-institutional alternatives, including home health and homemaker services, nutritional programs, day care, foster care, and community mental health care.

Unfortunately, current health care programs benefiting the elderly, medicare and medicaid, were never designed to provide the types of health care which so many of our elderly require. And if the demand for such services continues to rise at present rates, the current system will soon be grossly inadequate to the task of meeting the special needs of senior citizens. At present, far too many of our elderly must be near bankruptcy or severely disabled in order to qualify for adequate long-term health care. And because our health system fails to offer sufficient alternatives to institutionalized care, the one-quarter of the elderly in need of these alternatives must make the painful decision between unnecessary institutionalization or inadequate care, leading to isolation, loneliness, and despair.

Mr. President, what is urgently needed is a major review of current long-term health care programs, together with a comprehensive and coordinated long-term health care policy to meet the special needs of older citizens. It is for this reason that I am offering this legislation for your consideration to improve both institutional and noninstitutional health care services for the elderly.

My proposal would establish within medicare a major insurance program to provide integrated health services to older Americans. Specifically, my proposal would provide for the following:

First, it creates a five-man Federal Advisory Council on long-term care, whose designated Chairman is the Commissioner of the Administration on Aging and whose functions are to provide advice and recommendations to the Secretary and to approve all long-term care regulations of the Secretary before they become effective.

Second, it establishes a simplified enrollment process for the elderly which among other things, enables persons already enrolled under part B of medicare to be simultaneously enrolled under a new part D—the long-term care services program.

Third, it creates a State long-term care agency which will designate service areas within the State and assist the organization of community long-term care centers.

Fourth, it establishes a Federal long-term care trust fund. This fund would be derived from individual premiums, and general revenues of Federal and State governments—with the State contributions set at 10 percent.

Fifth, the community long-term care centers would function as providers, certifiers, evaluators, and guarantors of service. These centers would have a governing board composed of a majority of individuals who are enrolled or eligible to be in the program. This form of governance would promote local control, accountability, and the formation of a unique partnership of providers and recipients of care. The center will carry on a continuous followup with each individual who receives benefits under part D.

Sixth, the bill provides a $36-per-year increase in supplemental security income benefits which will cover the $3 per month premium established by part D.

Seventh, the bill will amend the Public Health Service Act to provide for the training of personnel, to implement this system.

Mr. President, I hope that my colleagues will join with me in supporting this legislation, a much-needed step in improving the health care of this Nation's elderly. I ask that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2288

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Long-Term Care Amendments of 1977".

ESTABLISHMENT OF MEDICARE LONG-TERM CARE PROGRAM

SEC. 2. Title XVIII of the Social Security Act is amended by adding at the end thereof the following new part:

"PART D—LONG-TERM CARE SERVICES PROGRAM

"ESTABLISHMENT OF PROGRAM

"SEC. 1881. (a) There is hereby established a program to provide long-term care benefits in accordance with this part for aged and disabled individuals who are enrolled under such program.

"(b) The program established by this part shall be financed from premium payments by enrollees in the program together with contributions from funds appropriated by the Federal Govenment and contributions by States.

"ADMINISTRATION OF PROGRAM

"SEC. 1882. The Secretary shall administer the program established under this part through a separate organizational unit, which he shall establish for that purpose within the Department of Health, Education, and Welfare. Such separate organizational unit shall be headed by an individual designated by the Secretary and such individual shall report directly to the Secretary.

"ADVISORY COUNCIL

"SEC. 1883. (a) There is hereby established a Federal Advisory Council on Long-Term Care to consist of the Commissioner of the Administration on Aging, who shall be Chairman, and four members, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall be persons who are especially qualified, by reason of training and experience in fields relating to long-term care, to carry out the duties of the Council.

"(b) Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that, of the members first appointed (and as designated by the Secretary at the time of appointment), one member shall be appointed for a term of four years, one member shall be appointed for a term of three years, one member shall be appointed for a term of two years, and one member shall be appointed for a term of one year. A member shall not be eligible to serve continuously for more than two terms, but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

"(c) It shall be the duty and function of the Council to provide advice and recommendations for the consideration of the Secretary on regulations under this part and on matters of general policy with respect to this part. No regulations of the Secretary under this part shall become effective unless they have first been approved by the Council.

"(d) The Council shall meet as frequently as the Chairman deems necessary, but not less often than once a year. Upon request of the Secretary or of three or more of the appointed members of the Council, it shall be the duty of the Chairman to call a meeting of the Council.

"(e) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as may be required to enable the Council to carry out its duties and functions.

"(f)(1) Appointed members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

"(2) While away from their homes or regular places of business in the performance of services of the Council, appointed members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government are allowed expenses under section 5703(b) of title 5, United States Code.

"(g) Section 14(a) of the Federal Advisory Committee Act shall not apply to the Council established pursuant to this section.

"ENROLLMENT FOR LONG-TERM-CARE SERVICE BENEFITS

"SEC. 1884. (a) Every individual who is or is deemed to be enrolled in the program established by part B shall be deemed to be enrolled in the program established by this part for any period, commencing on or after April 1, 1979, with respect to which such individual is or is deemed to be enrolled in the program established by part B.

"(b)(1) Every individual who is eligible to enroll in the program established by part

B, but is not enrolled nor deemed to be enrolled therein, shall be eligible to enroll in the program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this subsection.

"(2) No such individual may enroll under this part more than once.

"(3) In the case of individuals who first become eligible to enroll in the program established by part B before April 1, 1979, the initial general enrollment period shall begin on January 1, 1979, and end at the close of March 31, 1979. For purposes of this section, an individual shall be deemed to have first become eligible to enroll in the program established by part B on the date he first meets the applicable requirements of section 1836.

"(4) In the case of an individual who first becomes eligible to enroll in the program established by part B on or after April 1, 1979, his initial enrollment period shall begin on the first day of the third month before the month in which he first becomes eligible to enoll in such pogam and shall end 7 months iater.

"(5) There shall be a general enrollment period, after the period described in paragraph (3), during the period beginning on January 1 and ending on March 31 of each year beginning with 1980.

"(c) The period during which an individual is entitled to benefits under the program established by this part (hereinafter referred to as his 'coverage period') shall begin, in the case of an individual deemed to be enrolled hereunder pursuant to subsection (a), on July 1, 1979 or (if later) on the date such individual's coverage period under part B begins, and, in the case of any individual who enrolls pursuant to subsection (b), on whichever of the following is the latest:

"(1) July 1, 1979; or

"(2)(A) in the case of an individual who enrolls pursuant to subsection (b)(4) before the month in which he first becomes eligible to enroll in the program established by part B, the first day of such month, or

"(B) in the case of an individual who enrolls pursuant to subsection (b)(4) in the month in which he first becomes eligible to enroll in the program established by part B, the first day of the month, following the month in which he so enrolls, or

"(C) in the case of an individual who enrolls pursuant to subsection (b)(4) in the month following the month in which he first becomes eligible to enroll in the program established by part B, the first day of the second month following the month in which he so enrolls, or

"(D) in the case of an individual who enrolls pursuant to subsection (b)(4) more than one month following the month in which he first becomes eligible to enroll in the program established by part B, the first day of the third month following the month in which he so enrolls, or

"(E) in the case of an individual who enrolls pursuant to subsection (b)(5), the July 1 following the month in which he so enrolls.

"(d)(1) An individual's coverage period shall continue until his enrollment has been terminated—

"(A) by the filing of notice that the individual no longer wishes to participate in the program established by this part, or

"(B) for nonpayment of premiums.

"(2) Notwithstanding any other provision of this title, if an individual is enrolled under both part B and this part, termination of such individual's enrollment under this part shall serve to terminate such individual's enrollment under part B. Such individual's coverage period under part B shall terminate on the same date as such individual's coverage period is terminated under this part.

"(3) The termination of a coverage period under paragraph (1)(A) shall take effect at the close of the calendar quarter following the calendar quarter in which the notice is filed. The termination of a coverage period under paragraph (1)(B) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 90 days; except that it may be extended to not to exceed 180 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 90-day period.

"(4) No payment may be made under this part with respect to expenses of an individual unless such expenses are incurred by such individual during a period which, with respect to him, is a coverage period.

"(e)(1) Subject to paragraph (2), the monthly premium of each individual enrolled (or deemed to be enrolled) under this part for each month shall be $3.

"(2)(A) In the case of an individual whose coverage period began pursuant to an enrollment after his initial enrollment period (determined pursuant to paragraph (3) or (4) of subsection (b)), the monthly premium, as set forth in paragraph (1), shall be increased by 10 percent for each full 12 months, in the same continuous period of eligibility (as defined in section 1839(f)), in which he could have been but was not enrolled. For purposes of the preceding sentence, there shall be taken into account the months which elapsed between the close of his initial enrollment period and the close of the enrollment period in which he enrolled. Any increase in an individual's monthly premium under the first sentence of this subparagraph with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which such individual may have.

"(B) If any monthly premium determined under the foregoing provisions of this subsection is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

"SCOPE OF BENEFITS

"Sec. 1885. The benefits provided to an individual by the program established by this part shall consist of—

"(1) home health services,

"(2) homemaker services,

"(3) nutrition services,

"(4) long-term institutional care services,

"(5) day care services,

"(6) foster home services, and

"(7) community mental health center outpatient services.

"STATE LONG-TERM CARE AGENCY

"Sec. 1886. (a) The benefits provided under this part shall not go into effect in a State unless the Secretary makes a certification that such State has an agency (which shall be (i) the State agency on Aging with an adequate coordinating arrangement with the State health department and the State welfare agency, (ii) a major division of the State health department with an adequate coordinating arrangement with the State social welfare agency and the State agency on Aging, or (iii) a separate agency with an adequate coordinating arrangement with the State health department, the State social welfare agency, and the State agency on Aging (established pursuant to title III of the Older Americans Act of 1965) which—

"(1) designates service areas in the State in which community long-term care centers (as defined in section 1891 (a)) would provide the benefits covered by this part, after taking into consideration such factors as (A) demographic characteristics, (B) unusual patterns of utilization of health and community services, and (C) transportation services to the end that any such center serving a designated area will be conveniently accessible to the residents of the area; except that any service area so designated, if not coterminous with a planning and service area (as established pursuant to title III of the Older Americans Act of 1965) shall be wholly within such a planning and service area; and except that any service area so designated shall, to the maximum extent feasible, be wholly within an area designated by the Secretary under section 1152;

"(2) certifies, pursuant to standards and criteria established under regulations of the Secretary, community long-term care centers for participation in the program established by this part;

"(3) promotes and assists in the organization of new community long-term care centers in areas where they do not exist;

"(4) in any case where such a community long-term care center has not been certified for an area designated under paragraph (1), will establish a local office in such area for the purpose of performing the functions of such a center; except that such local office shall not be used for such purposes for longer than 2 years unless the Government certifies to the Secretary that additional time is needed to establish a nongovernmental community long-term care center with respect to such area;

"(5) monitors the activities of all community long-term centers in the State and reports to the Governor and to the Secretary whenever it finds that a community long-term care center either—

"(A) no longer meets the conditions of participtaion for a community long-term care center, or

"(B) is no longer effectively providing the benefits covered under this part;

"(6) certifies to the Secretary and makes payments to community long-term care centers in the State under the prospective reimbursement system required pursuant to section 1892; and

"(7) files an annual report with the Governor of the State and the Secretary on the operation in such State of the program established under this part.

"(b) The State long-term care agency shall conduct such audits as may be appropriate to assure that services furnished by providers pursuant to an arrangement with a community long-term care center are paid on the basis of reasonable charge, if the service is furnished by an individual practitioner, and on the basis of reasonable cost, if the service is furnished by a person other than an individual practitioner.

"PAYMENT OF PREMIUMS

"Sec. 1887. (a)(1) In the case of an individual who is entitled to monthly benefits under section 202 or 223, his monthly premiums under this part shall (except as provided in subsections (b)(1) and (c)) be collected by deducting the amount thereof from the amount of such monthly benefits. Such deductions shall be made in such manner and at such times as shall be prescribed in regulations.

"(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Long-Term Care Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates from benefits under section 202 or 223 which are payable from

such Trust Fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(b)(1) In the case of an individual who is entitled to receive for a month an annuity or pension under the Railroad Retirement Act of 1937 (whether or not such individual is also entitled for such month to a monthly insurance benefit under section 202 or 223), his monthly premiums under this part shall (except as provided in subsection (c)) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as shall be prescribed in regulations by the Secretary after consultation with the Railroad Retirement Board.

"(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Federal Long-Term Care Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

"(c) If an individual to whom subsection (a) or (b) applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

"(d)(1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) applies, his monthly premiums under this part (and the monthly premium of the spouse of such individual under this part if neither subsection (a) nor subsection (b) applies to such spouse and if such individual agrees) shall, upon notice from the Secretary to the Civil Service Commission, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Civil Service Commission may determine. The Commission shall furnish such information as the Secretary may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies. A plan described in section 8903 of title 5, United States Code, may reimburse each annuitant enrolled in such plan in an amount equal to the premiums paid by him under this part if such reimbursement is paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

"(2) The Secretary of the Treasury shall from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other law administered by the Civil Service Commission, to the Federal Long-Term Care Trust Fund, the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or to small.

"(e)(1) In the case of a individual receiving benefits under title XVI of this Act to whom neither subsection (a), subsection (b), nor subsection (d) applies, his monthly premium shall be collected by deducting the amount thereof from the amount of such benefits. Such deduction shall be made in such manner and at such times as shall be prescribed in regulations.

"(2) Amounts deducted by the Secretary under paragraph (1) shall be deposited in the Treasury to the credit of the Federal Long-Term Care Trust Fund.

"(f) In the case of an individual who participates in the program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (c) applies, the premiums shall be paid to the Secretary at such times, and in such manner, as shall be prescribed in regulations. Such regulations shall be designed to encourage and facilitate, in the case of any individual receiving periodic benefits under any retirement system (other than any of the foregoing) administered by an agency of the Federal Government, the payment of such individual's premiums under this part through automatic deductions from the individual's periodic benefit payments under such system; and, notwithstanding any other provision of law, the administrator of any such retirement system shall, when so requested by any recipient of benefits thereunder who is enrolled under this part, to deduct the individual's premiums therefrom and forward the same to the Secretary.

"(g) Amounts paid to the Secretary under subsection (c) or (f) shall be deposited in the Treasury to the credit of the Federal Long-Term Care Trust Fund.

"(h) In the case of an individual who participates in the program established by this part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

"FEDERAL LONG-TERM CARE TRUST FUND

"SEC. 1888. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Long-Term Care Trust Fund' (hereinafter in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

"(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees (hereinafter in this section referred to as the 'Board of Trustees') composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the 'Managing Trustee'). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

"(1) hold the Trust Fund;

"(2) report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

"(3) report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

"(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and the disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of public debt obligation for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 percent the rate of interest on such obligations shall be the multiple of one-eighth of 1 percent nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

"(d) Any obligations acquired by the trust fund (except public debt obligations issues exclusively to the trust fund) may be sold by the Managing Trustee at the market price, and such public debt obligations may be redeemed at par plus accrued interest.

"(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the trust fund shall be credited to and form a part of the trust fund.

"(f) There shall be transferred periodically (but not less often than once each fiscal year) to the trust fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to section 1870(b) and amounts equivalent to the amounts made nonpayable under section 1896(b). There shall be transferred periodically (but not less often than once each fiscal year) to the trust fund from the railroad retirement account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to section 1870(b).

"(g) The Managing Trustee shall pay from time to time from the trust fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part.

"(h) The Managing Trustee shall pay from time to time from the trust fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for in sections 1892 and 1895(c).

"(i) In order to assure that there will be sufficient moneys available for the administration of the insurance program established by this part during the early months of its operation, and to establish a contingency reserve, there is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available through the calendar year 1980, for repayable advances (without interest) to the Trust Fund, such sums as may be necessary for such purpose.

"FUNCTIONS OF COMMUNITY LONG-TERM CARE CENTERS

"SEC. 1889. (a)(1) The functions which a community long-term care center must perform in order to meet the conditions of section 1891(a)(4) shall be those described in paragraph (2).

"(2) A community long-term care center shall—

"(A) provide (directly or through arrangements with other persons) the items and services lised in section 1885 to each individual (i) who is eligible for benefits under this part; (ii) who resides in the area served by such center (as determined under section 1885(a)), and (iii) who is certified as requiring such services as determined under subparagraph (B); except that such a long-term care center shall not provide directly any long-term institutional care services, nor shall any such center provide directly any other items and services unless they cannot be provided through arrangements with others or unless such center is able to provide them more economically than would be the case if they were provided under arrangements with others;

"(B) evaluate and certify (through a team composed of individuals with the skills necessary for such evaluation and certification) the long-term care needs of each individual, who is entitled to services under this part and applies to such center for an evaluation of his needs, and develop for such individual a plan of care and services designed to promote optimal health and to assist such individual to maintain maximum independence and physical, mental, and social function;

"(C) maintain a continuous relationship with (and periodically evaluate not less than annually) each individual who is receiving any of the items and services listed in section 1885 (including institutional services provided to inpatients) in order to assure (i) that such individual has access to the services provided found to be required pursuant to subparagraph (B), including the provision of assistance in connection with any problems such individual may have in the course of reeciving such services, (ii) that such services are sufficient in quantity and quality to meet the objectives of the care plan, and (iii) that such center is continuously informed about the status of such individual and the need for any changes in the services being received by such individual;

"(D) in carrying out its function under subparagraphs (B) and (C), provide full opportunity for such individual and his family to participate in the determinations and functions under such subparagraphs;

"(E) provide an organized system for making its existence and location known to all individuals in its service area (as defined in section 1886(a)) who are eligible for benefits under this part, and for making known to such individuals the method or methods by which they (or persons interested in them) may most efficiently obtain and use the services which it makes available) including services not listed in section 1885);

"(F) provide appropriate assistance designed to assure that individuals, who are eligible for benefits under this part and who are in need of a particular service for which payment may be made under this part, actually are furnished the services which they need; and

"(G) perform such other functions as the Secretary may by regulation prescribe in order to have such center most effectively carry out the purposes of this part.

In carrying out its functions under subparagraph (B), a community long-term care center shall not certify the need for inpatient institutional services for an individual unless a determination has been made that the needs of such individual cannot, with equal effectiveness, be met through the provision of the noninstitutional services covered under section 1885 or other community resources available to such individual.

"(b) In the case of any service which a community long-term care center furnishes through arrangements with others, such services shall, if provided by an individual practitioner, be paid for on the basis of reasonable charge, and if provided by other than an individual practitioner, be paid for on the basis of reasonable cost.

"PAYMENT TO STATES FOR REIMBURSEMENT OF COMMUNITY LONG-TERM CARE CENTERS

"SEC. 1890. (a) From sums in the Federal Long-Term Care Trust Fund, the Secretary shall pay to each State which has a State long-term care agency certified under section 1886, for each quarter beginning with the quarter commencing July 1, 1979, an amount equal to—

"(1) the total amount expended during such quarter as payment to community long-term care centers in such State under the applicable provisions of this part, minus.

"(2) 10 percent of such total amount.

"(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter. Such estimates will be based on (A) a report filed by the State containing its estimates of the total sum to be expended in such quarter in accordance with the provisions of this part, and (B) such other investigations as the Secretary may find necessary.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced, or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"DEFINITION OF TERMS USED IN THIS PART—

"COMMUNITY LONG-TERM CARE CENTER

"SEC. 1891. (a) The term 'community long-term care center' as used in this part means an organization (or a

"DEFINITION OF TERMS USED IN THIS PART

"(1) is primarily engaged in providing (directly or through arrangements with other persons) the items and services listed in section 1885 (other than the direct provision of institutional services furnished to inpatients) to individuals residing in its service area (as designated pursuant to section 1886);

"(2) has policies, established by a group of professional personnel (associated with such organization) and concurred in by the governing board (as defined in subsection (b)) of such organization;

"(3) maintains medical and other records on all individuals receiving any of the items or services listed in section 1885 (including institutional services);

"(4) performs the functions described in section 1889;

"(5) has in effect an overall plan and budget which (under regulations of the Secretary) places the organization in a position to participate effectively and efficiently in the prospective reimbursement system required under section 1892;

"(6) is located so as to be easily accessible to individuals residing in its service area;

"(7) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by or through such organization; and

"(8) agrees not to impose any charges with respect to items or services furnished to an individual during such individual's coverage period for which such organization is paid under this part;

except that such term shall not include any nonpublic organization which is not a nonprofit organization exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or any subdivision of such an organization); and except that such term shall not include any organization which has not been certified by the State agency referred to in section 1886 as meeting the requirements of this subsection.

"Governing Board

"(b) For purposes of subsection (a), the term 'governing board', with respect to any community long-term care center, means a body of at least eleven individuals—

"(1) more than half the members of which are individuals enrolled or eligible to be enrolled under section 1884 who reside in the service area of such center, and who have been elected (under terms set forth in regulations) to such membership by individuals enrolled or eligible to be enrolled under section 1884 who live in such service area, and the remainder of whom have been selected by the members so elected with the concurrence of the principal local elected governmental official (as determined by the Governor of the State in which such service area is located) having authority over or with respect to such service area,

"(2) which changes its entire membership at least as often as every 6 years, and

"(3) which does not have members who have served more than 2 terms.

"Nutrition Services

"(c) The term 'nutrition services' for purposes of this part shall include only—

"(1) meals on wheels and similar programs for the delivery of meals to individuals in their place of residence;

"(2) food services (and nutritional information services) furnished to individuals in their place of residence by a community long-term care center or by another agency or organization having an arrangement with such center under which such services are furnished to individuals in need thereof who are insured under this part; and

"(3) services provided in the place of residence of such individual by a professional nutritionist (but only if the need for such services has been certified to by such individual's physician).

"Homemaker Services

"(d) The term 'homemaker services' for purposes of this part shall include—

"(1) services provided in the home of an individual designed to maintain the home (not including the structure of the home) in a condition which supports the objectives of enabling such individual to continue living at home, and

"(2) preparing and serving meals in the home of an individual.

"Institutional Services

"(e)(1) The term 'institutional services' for purposes of this part means (A) extended care services as defined in section 1861(h),

(B) intermediate care services as defined in paragraph (2), and (C) institutional day care services as defined in paragraph (3).

"(2) The term 'intermediate care services' for purposes of paragraph (1) means any of the following items and services furnished to an inpatient of an intermediate care facility (as defined in subsection (i)) and (except as provided in subparagraphs (C) and (F)) by such intermediate care facility—

"(A) nursing services;

"(B) bed and board;

"(C) physical, occupational, or speech therapy furnished by the intermediate care facility or by others under arrangements with them made by the facility;

"(D) social services certified as necessary (in the individual case) by the community long-term care center responsible for the care of such individual;

"(E) drugs, biologicals, supplies, appliances, and equipment, furnished for use in the facility for the care and treatment of inpatients;

"(F) medical services provided by an intern or resident in training of a hospital with which the facility has, in effect, a transfer agreement (meeting the requirements of subsection 1961(l)) under a teaching program of such hospital approved as provided in the last sentence of subsection 1861(h); and

"(G) such other services necessary to the health or well-being of the patients as are generally provided by intermediate care facilities.

"(3) The term 'institutional day care services' for purposes of paragraph (1) means intermediate care services (other than items or services, except meals, described in subparagraphs (B) and (E) of paragraph (2)) which are provided to outpatients.

"Home Health Services

"(f) The term 'home health services' for purposes of this part shall have the meaning given it in section 1861(m).

"Day Care; Foster Home Care

"(g)(1) The term 'day care' for purposes of this part means care (other than care with a primary objective of providing medical or physcial services) provided to an individual, on a regular (but less than 24-hour-a-day) basis, in a place other than such individual's usual place of abode, by a person or institution licensed or approved by the State long-term care agency, but only if such care is part of the services certified by the community long-term care agency under section 1889.

"(2) The term 'foster home care' for purposes of this part means placement of an individual on a full-time basis in a family setting, except that such term shall not include care in a foster home which is not licensed or approved by the State long-term care agency or which has more than four individuals unrelated by blood or marriage to such family.

"Community Mental Health Center Outpatient Services

"(h) The term 'community mental health center outpatient services' for purposes of this part means outpatient services provided by community mental health centers as defined in the Community Mental Health Centers Act.

"Intermediate Care Facility

"(i) The term "intermediate care facility' for purposes of this part means an institution which—

"(1) is licensed under State law to provide, on a regular basis, health-related care or other services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board), over and above the noninstitutional items and services listed in section 1885, which can be made available to them only through institutional services;

"(2) meets such standards provided by the Secretary as he finds appropriate for the proper provision of such care;

"(3) has adequate arrangements for handling medical emergencies; and

"(4) meets such standards of safety, health, and sanitation as are established under regulations in addition to those applicable to such facility under State law. The term 'intermediate care facility' also includes any skilled nursing home or hospital which meets the requirements of the preceding sentence. The term 'intermediate care facility' also includes a Christian Science Sanitorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to institutional services. The term 'intermediate care facility' also includes any institution which is located on an Indian reservation and is certified by the Secretary as meeting the requirements of this subsection.

"PAYMENT METHOD FOR COMMUNITY LONG-TERM CARE CENTERS

"SEC. 1892. (a) The Secretary, after consultation with organizations representing the chief executives of the various States, and other interested parties, shall develop and make available to community long-term care centers one or more methods of obtaining payment for the benefits covered under this part on a prospective basis. Once a community long-term care center elects a particular prospective method, it may not alter its election without the prior approval of the Secretary. Whenever the Secretary finds that the number of community long-term care centers electing a particular prospective payment method promulgated in accordance with this section is not sufficient to provide an adequate basis for either the operation or evaluation of that method, the Secretary shall withdraw that method and allow the community long-term care centers which have elected such method to select another method within 30 days of notice of such withdrawal.

"(b) Whenever the Governor of a State certifies to the Secretary a method of prospective payment other than those promulgated under subsection (a), the Secretary shall make available the method certified by the Governor to community long-term centers situated in such State, but only if the Secretary finds that the use of such method will not increase the costs of the program established under this part over what the costs would be if such method were not so available.

"(c) Prospective payment methods authorized under this part shall include provisions for (1) financial incentives for efficiency and effectiveness equal to the potential difference between the prospective rates or amounts and the amounts actually incurred by a community long-term care center, and (2) maintaining independent management discretion and responsibility in community long-term care centers.

"(d) Any payment method which the Secretary promulgates under this section shall not be modified once established with respect to a community long-term care center, during any accounting period, except under the circumstances specified in regulations of the Secretary.

"(e) Following publication of final regulations governing the method or methods of determining prospective rates or amounts under this part; each community long-term care center shall have a period of 60 days within which to elect to participate in one of the prospective payment methods made available during the first fiscal year beginning more than 120 days after the end of such 60-day period.

"MISCELLANEOUS PROVISIONS

"SEC. 1893. (a) Notwithstanding any other provisions of this part, any item or service which is covered under part A or B of this title shall not be a covered service under this part.

"(b) The Secretary shall pay to any State long-term care agency certified under section 1886, in advance or by way of reimbursement, amounts equal to 90 percent of the costs incurred by such agency in carrying out the functions described in such section (and may make adjustments in such payments on account of overpayments or underpayments previously made).

"(c) The provisions of paragraphs (2), (3), (4), (5), (8), (10), (11), (12), and (13) of section 1862(a) shall apply with respect to this part to the same extent as they apply with respect to parts A and B.

"(d) Notwithstanding any other provision of this title no payment shall be made under this part for or on account of any service furnished by any nonpublic institution, agency, or organization, unless it has on file with the State long-term care agency (designated pursuant to section 1886) current information which makes (in accordance with regulations prescribed by the Secretary) full and complete disclosure as to the ownership and control of such institution, agency, or organization. Such State agency shall make public any and all such information filed with it pursuant to such regulations.

"DETERMINATIONS AND APPEALS

"SEC. 1894. (a) The determination of whether an individual is entitled to benefits under this part shall be made by the Secretary in accordance with regulations prescribed by him.

"(b) Any individual dissatisfied with any determination under subsection (a) as to (1) whether he is eligible to enroll or has enrolled pursuant to this part, or (2) the amount of his benefits under this part (including a determination where such amount is determined to be zero), shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"REGULATIONS TO ASSURE HIGH QUALITY OF SERVICES

"SEC. 1895. (a)(1) In order to assure that homemaker services and nutritional services provided hereunder are of high quality, and are appropriately furnished, the Secretary shall by regulation prescribe standards respecting such services and the provisions thereof as may be necessary; and, with respect to other services provided hereunder, the Secretary is authorized to establish by regulation such additional standards as may be necessary to assure high quality and the protection of the health and safety of recipients of such services under this part.

"(b) Nothing contained in subsection (a) or in any other provision in this part shall be construed to limit any State, by law or regulation pursuant thereto, from establishing additional, or more stringent, standards and conditions which shall be applicable to the provision of services authorized to be provided under this part.

"STATE AGENCIES TO CERTIFY PROVIDERS

"SEC. 1896. No community long-term care center shall enter into any contract or other arrangement with any other person under which such other person will furnish services to individuals who are insured therefor under this part unless such person shall have been approved by the appropriate State agency as meeting the applicable standards imposed by this part and the regulations promulgated under this part.".

MISCELLANEOUS PROVISIONS

SEC. 3. (a) Section 1861 of the Social Security Act is amended by striking out "title"

the first time it appears and inserting in lieu thereof "parts A, B, and C of this title".

(b) Section 1611(e)(1)(B) of such Act is amended by inserting "or under part D of title XVIII" immediately after "under a State plan approved under title XIX".

(c) Section 1870(g) of such Act is amended by striking out "or under section 1837" and inserting in lieu thereof ", under section 1837, or under section 1884".

(d) Section 201(i)(1) of such Act is amended by striking out "and the Federal Supplementary Medical Insurance Trust Fund" and inserting in lieu thereof "the Federal Supplementary Medical Insurance Trust Fund, and the Federal Long-Term Care Trust Fund".

INCREASE IN SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 4. Section 1617 of the Social Security Act is amended by—

(a) inserting "(a)" immediately after "SEC. 1617.", and

(b) adding at the end thereof the following new subsection:

"(b) With respect to months after June 1977, each of the dollar amounts (referred to in subsection (a)) in effect for any month, as determined without regard to this subsection, shall be deemed to be equal to the amount so determined plus $36; except that such $36 shall not be taken into account under subsection (a) in determining the amount of any increase pursuant thereto.".

EFFECTIVE DATE

SEC. 5. (a) The amendment made by section 2 of this Act shall be effective upon the enactment of this Act; except that no payment shall be made for services covered under the program established by part D of the Social Security Act (as added by such amendment) which are furnished before July 1, 1979.

(b) The amendments made by section 3 of this Act shall be effective on July 1, 1979.

LONG-TERM CARE TRAINING PROGRAMS

SEC. 6. (a) Title VII of the Public Health Service Act is amended by inserting after section 796 the following new section:

"LONG-TERM CARE TRAINING PROGRAM

"SEC. 797. (a) The Secretary may make grants to and enter into contracts with institutions otherwise eligible under this part to assist in meeting the cost of training programs in the techniques and methods of providing long term health care for persons eligible for assistance under part D of title XVIII of the Social Security Act.

"(b) No grant or contract may be entered into under this section unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated such sums as may be necessary.".

(b) Section 792(c)(2) of the Public Health Service Act is amended by—

(1) redesignating subparagraphs (F) and (G) as (G) and (H); and

(2) inserting after subparagraph (E) the following:

"(F) developing, demonstrating, or evaluating programs for training geriatric services specialists;".

(c) Section 330(b)(1) of the Public Health Service Act (42 U.S.C. 254c) is amended by—

(1) redesignating subparagraphs (E) and (F) as (F) and (G); and

(2) inserting after subparagraph (D) the following:

"(E) geriatric services;".

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By Mr. WALLOP:

S. 2289. A bill relating to the Buffalo Bill extension, Shoshone project, Wyoming; to the Committee on Energy and Natural Resources.

Mr. WALLOP. Mr. President, today I introduce a bill to make the first substantial improvements to a water resources project which was constructed 70 years ago, between 1905 and 1910. When first constructed, the Buffalo Bill Dam, in northwest Wyoming, was the highest dam in the world, and was named a national engineering landmark. Situated at the confluence of the North and South Forks of the Shoshone River, in Park and Big Horn Counties, its drainage area totals about 1,500 square miles in the high mountains of the Absaroka Range.

Its original purpose was to store water for use on irrigable lands in the Shoshone project. Power production was added as a function of the project with the construction of the Shoshone powerplant near the base of the dam in 1922. Another powerplant, the Heart Mountain powerplant, was constructed about 3 miles downstream in 1948. Both plants are integrated into the western division power system of the Pick Sloan Missouri Basin program.

This bill seeks to modernize and improve this 70-year-old project, to make use of modern technology and the underutilized potential of this site. The height of the dam would be raised by 25 feet, permitting the storage of water which would normally be released. This would increase active conservation storage by over 250,000 acre-feet, to not only provide additional water for irrigation, but a firm yield of 74,000 acre-feet for municipal and industrial uses as well. First in priority however, would be additional water to provide for minimum downstream flows necessary to provide for the maintenance of a balanced population of fish, the protection and propagation of wildlife, and the enhancement of recreation opportunities. In addition to downstream uses, the enlarged reservoir will increase the fishery habitat within the reservoir. To control the increased pool created by the addition, dust control dikes and a low saddle dike will be constructed.

The heightened dam and enlarged reservoir are one part of the increased utilization of the existing facilities. The construction of a visitors' center on the left abutment of the dam will serve the large number of tourists who stop annually at the damsite. The dam's location, in a narrow granite gorge between the city of Cody and Yellowstone National Park, make it a natural stopping off point for visitors. The structure's registry as a national engineering landmark makes it of special interest. I should mention that the extension of the existing structure, and the construction of the visitors' center may be done in such a way as to not detract from the architecture of the original structure, or from its spectacular setting in the gorge.

The complete plan for expansion contains one more important element; the modernization of the hydroelectric generating equipment presently located at the site. The existing 5-megawatt powerplant is obsolete and is expected to be abandoned in the near future. The new 20-megawatt plant will increase power production to 21 million kilowatt hours annually. It is important to note that the raising of the dam will itself increase the production potential of the new equipment by 17 percent.

Each of the elements of this plan, standing alone, not only make use of a previously underutilized resource, but each possesses a positive cost-benefit ratio.

Increased power production, visitor's facilities, and benefits associated with minimum streamflow and increased flexibility in reservoir operation, will be immediately realized upon completion of the project. Other benefits, consumptive and other out-of-stream uses of water, will come later. A benefit which may be impossible of precise measurement is that of mitigation of the effects of future droughts. The economic losses of this year's drought, and the infusion of Federal funds which was necessary to prevent disaster, are detriments which can be avoided thorough the wise and efficient use of the resources which we have at hand. I believe that this project will allow and provide for just such an efficient use of our water resources.

In addition to authorizing the construction of project works, this bill establishes priorities for the use of "new" water stored by the project. Of primary importance is the provision for minimum streamflows necessary to enhance downstream environmental values. As a general proposition, I do not believe that the Federal Government should be in the business of mandating the location and extent of minimum streamflows to the States. Often times, the establishment of minimum streamflows would amount to confiscation of previously vested private water rights perfected under State law, or would preempt the State's ability to allocate future water supplies. This poses a difficult conflict, but one in which I would come down on the side of the State's right to determine the need for minimum streamflow, with regard to its other obligations to provide water to its citizens and neighboring States. However, in this case, where the Federal Government is storing previously unappropriated water at Federal expense, I must come down on the side of a Federal prioritization which protects these environmental values from the start. In this way, later conflicts between conservation and consumption can be avoided, and water users will not only have additional water at their disposal, but the assurances that their use of that water will not detract from important instream values. A stable economic climate may thus be created, in which water users will know that they will not later be called to task for their out-of-stream uses.

The second priority of use is for irrigation and other beneficial uses in Wyoming. The third is for beneficial uses elsewhere. While this may seem provincial, it only seeks to recognize previous agreements between Wyoming and downstream States as to relative rights to the uses of water in the upper Missouri River Basin.

Repayment contracts must of course be executed before water deliveries may be made from new water created by the

Buffalo Bill extension. The provisions of reclamation law shall apply, but shall be waived upon full repayment by the State or by water users, of those portions of the cost of the project which are allocated to irrigation. This will only be effective so long as individual irrigators receive no more than 5 percent of the water allocated for use in irrigation. Regardless of the applicability of the payback provision, acreage limits shall not be applied without regard to land quality and climate. Equivalency shall be provided as determined by the Secretary of Interior. Mr. President, I believe this project will result in benefits in the form of increased energy production, the enhancement of environmental values, and the realization of the full potential of the natural resources of the area. I encourage its consideration and adoption.

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By Mr. WALLOP (for himself and Mr. HANSEN):

S. 2290. A bill to require the Administrator of Veterans' Affairs to issue a deed to the city of Cheyenne, Wyo., for certain land heretofore conveyed to such city, removing certain conditions and reservations made a part of such prior conveyance; to the Committee on Veterans' Affairs.

Mr. WALLOP. Mr. President, the best laid plans of men and local governments are often frustrated by well-intentioned acts of Congress which did not, and indeed could not have, taken into account the special circumstances and necessity of our moment. One such act was Public Law 89–345, which authorized the transfer of a rather smallish tract of land from the Administrator of Veterans' Affairs to the city of Cheyenne, Wyo. This land was transferred subject to the condition that it be used only for park and recreation purposes, and herein lies the problem.

The city of Cheyenne is now in the planning stages of a project that will reroute Converse Avenue in the city. It is felt that rerouting the avenue is necessary to accommodate the increased flow of traffic that Cheyenne will have in the future due to increased development on the north side of the city. However, that new route lies down the edge of that property which was to be used only for parks and recreation purposes.

The Veterans' Administration has no objection to the city of Cheyenne rerouting Converse Avenue through the property and is in basic agreement with the plan. However, the Veterans' Administration's general council informs the city that because of the reverter clause in the present Public Law 89–345, road construction would cause the property to revert back to the administration, regardless of the administration's lack of objection.

Senator HANSEN and I met with Mayor Don Erickson, of Cheyenne, earlier this year. Mayor Erickson briefed us on the city's plans, and made a convincing argument for the need for this legislation.

Mr. President, this bill would protect the interests of the United States and would not interfere with the peaceful or efficient operation of the Veterans' Administration center. But it would allow one American city to implement its plans to cope with growth in an orderly manner, and to provide its citizens with needed access to their homes and places of business.

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By Mr. BROOKE:

S. 2291. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to extend relocation assistance to persons displaced as the result of real property acquisitions by private persons for federally assisted programs or projects, and for other persons; to the Committee on Governmental Affairs.

Mr. BROOKE. Mr. President, I am today introducing a bill to clarify the scope of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. This bill would apply to situations where Federal funding is responsible for displacement of individuals or businesses, but where the displacement is caused by nongovernmental entities using Federal funds. It would provide that all persons who are displaced from their homes or businesses by programs undertaken with Federal funds are entitled to receive the benefits under the act.

The goal of Congress as stated in the declaration of policy of the Uniform Relocation Act was to establish a uniform policy providing relief for all persons displaced as a result of Federal or federally assisted programs. However, recent court decisions have narrowly construed this intent by denying assistance to those persons who were displaced by a federally assisted project undertaken by a nongovernmental entity. These courts have determined that entitlement to benefit is based upon the recipient of Federal funds—whether it is a governmental or nongovernmental agency—rather than the effect of the displacement on the person suffering injury.

A person is no less injured by the fact that the entity which brings about the displacement is a private institution rather than a governmental agency.

This bill would redress the inequity which has resulted from judicial interpretations of the current law. In addition, this bill would allow persons already displaced by private institutions using Federal funds to submit a claim with the Attorney General to recover the relocation costs dating back to the enactment of the statute in 1970. These persons would have 3 years from the date of enactment of this bill to submit a claim.

Mr. President, I urge rapid consideration of this bill so that this serious inequity may be remedied.

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By Mr. PACKWOOD:

S. 2292. A bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; jointly, by unanimous consent, to the Committee on Governmental Affairs and the Committee on the Judiciary.

Mr. PACKWOOD. Mr. President, today I am introducing legislation which would greatly facilitate the resolution of disputes between private contractors and the Federal Government. This legislation is the product of a consensus reached by experts in the field of Government litigation. It was prepared jointly, and approved by, the Government contracts and litigation division of the District of Columbia Bar and the public contracts section of the American Bar Association.

Congressman JOE FISHER, who has a large number of Government contractors in his Virginia district, is introducing a similar bill on the House side. We feel that the maturation process of resolving Government contract disputes has lagged far behind the massive growth of Government procurement of recent years. The legislation we are introducing today will end many of the procedural inequities and inconveniences currently being experienced by the contractor who feels he has been wronged by his Government.

On the other hand, this bill is not intended to be a one-sided or contractor-oriented bill. Litigation is expensive for the Government as well, and anything we can do to expedite the resolution of disputes helps reduce this unnecessary expenditure. In addition, we have included a provision to allow the Government to appeal a question of law it feels will create a bad precedent.

I will try to be brief, but I would like to explain some basics of the current contract resolution process and the changes proposed by this bill.

There are presently 13 administrative boards of contract appeals located in the executive agencies. Two of these boards are in the Department of Defense. One is the Armed Services Board which hears and decides appeals arising under contracts awarded by the military departments and the Defense Logistics Agency. The other is the Corps of Engineers Board which hears and decides appeals arising under contracts awarded by the corps for civil works projects. Seven of the other Administrative Boards of Contract Appeals are located in the Departments of Energy, Agriculture, Transportation, Labor, Commerce, Interior, and Housing and Urban Development. Finally, there are also administrative boards of contract appeals in the General Services Administration, the Veterans' Administration, the National Aeronautics and Space Administration, and the U.S. Postal Service.

Some of these boards hear and decide appeals under contracts awarded by other agencies pursuant to delegations of authority. For example, the Armed Services Board (ASBCA) handles cases arising under contracts awarded by the Department of State and Health, Education, and Welfare. The Department of the Interior Board handles cases arising under contracts awarded by the Environmental Protection Agency.

There are approximately 70 members of these administrative boards of contract appeals. Most are called administrative judges. About six to eight are administrative law judges. Except for six paid at GS–16, and two at GS–17, all board members are paid at the GS–15 level.

These administrative boards of contract appeals cumulatively handle approximately 2,000 appeals per year. About half of these are settled. The remainder are decided by judicial type

written opinions each containing findings of fact and conclusions of law. About 5 percent of the decided cases are appealed each year to the Court of Claims or the Federal district courts. The dollar amounts in controversy vary from a few hundred dollars to hundreds of millions of dollars in large weapons systems or ship construction contracts.

In all cases processed by an administrative board of contract appeals, the contractor has the right to an oral hearing if he so desires. In some cases, the parties waive oral hearing and submit the appeal for decision on the documentary record. Contractors may be represented by counsel, but legal counsel is not required. Many contractors appear for themselves and if there is an oral hearing, they are permitted to tell their story uninhibited by the particularities of the rules of evidence.

In order to minimize expense to the parties, particularly the contractor, the administrative boards of contract appeals hold most of their hearings where the parties or their witnesses are located. In years 1976 and 1977, for example, the ASBCA, the largest of the boards, held approximately 65 percent of its hearings outside the Washington, D.C. area.

Where the optimal accelerated procedure is elected, which covers about 10 to 20 percent of all appeals, the contractor is uniformly afforded a hearing in the city where he is located if he so desires. By board rule, "accelerated procedure" cases are decided within 30 days from the date they become ready for decision. If the claim is $5,000 or less, the board member is authorized to rule from the bench following an oral hearing.

Hearings before the administrative boards of contract appeals are judicial in nature, involving examination and cross-examination of witnesses. In appeals involving substantial dollar amounts, the contractor is usually represented by competent legal counsel. There are several law firms which specialize in public contract law. The Government agencies are uniformly represented by counsel.

The jurisdiction of these boards is contractual, that is, it is based upon the terms of the "disputes" clause included in virtually all Government contracts. This disputes process provides for appeals by the contractor to the head of the department or executive agency, or his authorized representative. By delegation, the administrative board of contract appeals is the authorized representative of the department or agency head. However, over the years, and by virtue of certain Supreme Court decisions—for example, *United States* v. *Carlo Bianchi & Co.*, 337 U.S. 709 (1963)) these administrative boards have become, in effect, the trial courts on contract disputes, with the Court of Claims and Federal District Courts becoming appellate courts.

The bill I am introducing today is intended to strike a balance between aspects of contract disputes litigation which should be processed administratively and those which should be pursued by the courts.

I will explain by briefly discussing some of the substantive benefits of each section of the bill. In section 4, the new disputes settlement authority would eliminate virtually all dismissals based on lack of jurisdiction on matters deemed arising "outside" the contract. Without sophisticated counsel, contractors now sometimes have difficulty distinguishing between matters arising under or outside the contract and choose the wrong forum. Section 4 would eliminate this problem.

Section 5 would require prompt and definitive rulings on claims, and eliminate many problems contractors now have in obtaining decisions at the contracting officer level.

Section 6, "the settlement review conference" section, contemplates regulations requiring settlement conferences at appropriate levels. The intent is to avoid unnecessary, expensive litigation.

Section 7 extends the appeal period to 90 days from the present 30. Small contractors now frequently miss the 30-day period due to mistakes, clerical errors, or a need felt by some contractors to get legal advice or information from subcontractors. As a result they have no remedy. The 90-day period would substantially eliminate these problems.

Section 8 would place agency contract appeal boards on statutory footing providing independence and giving board members appropriate salaries needed for recruitment and retention. Such independence would enhance fairness of decisions. Also, the statutory minimum five-person boards would eliminate inefficiencies now exhibited in some of the smaller boards, resulting in savings to taxpayers.

Section 9, the codification of the requirement for expedited small claims procedure, is of definite advantage to small contractors. Each board of contract appeals would have a special procedure to resolve claims of under $25,000 in less than 120 days.

Section 10 would allow contractors to go to court directly if they choose. Where an important question of law is involved, early Court of Claims decision is desirable. It would also allow the court reviewing a board decision to receive additional evidence on matters not litigated before the board, thereby avoiding time consuming remands and appeals.

Section 11 provides the administrative boards greater subpoena power by compelling the attendance of witnesses and requiring the submission of evidence through deposition and discovery techniques. These procedures will, in turn, aid the contractor in developing his case.

Section 12 would require Federal agencies to pay interest on claims finally resolved in the contractor's favor.

I urge the early consideration of this legislation in Senate committee hearings. I also ask that my colleagues seek the views of their contractor constituents.

I think they will find a great deal of support for this bill, specifically, as well as other efforts we can make to reduce the unreasonable burdens of Government regulation, paperwork, and delay.

I ask unanimous consent that the text of the Contract Disputes Act of 1977 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Contract Disputes Act of 1977".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "agency head" means the head and any assistant head of an executive agency;

(2) the term "executive agency" means an executive department as defined in section 101 of title 5, United States Code, an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a military department as defined by section 102 of title 5, United States Code, a wholly owned Government corporation, the United States Postal Service, and the Postal Rate Commission;

(3) the term "contracting officer" means a Goverment officer or employee who is a properly designated contracting officer; and

(4) the term "contractor" means a party to a Government contract other than the Government.

APPLICABILITY OF ACT

SEC. 3. Unless otherwise specifically provided herein, this Act applies to any express or implied contract (including those of the nonappropriated fund activities described in 28 U.S.C. 1346 and 1491), governed by the laws of the United States, entered into by the United States for the procurement of property other than real property in being, for services, for the construction, alteration, repair, or maintenance of real property or for the disposal of personal property. It shall also apply to any other contract or agreement with the United States, which by its terms is expressly made subject to the provisions of this Act.

CLAIMS AND DISPUTES SETTLEMENT AUTHORITY

SEC. 4. Each executive agency is authorized to settle, compromise, pay, or otherwise adjust any claim by or against, or dispute with, a contractor relating to a contract entered into by it or another agency on its behalf, including claims based on breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission, but excluding a claim or dispute for penalties or forfeitures prescribed by statute or regulation which other agency is specifically authorized to administer, settle, or determine.

DECISION BY THE CONTRACTING OFFICER

SEC. 5. (a) All contract disputes claims submitted by a contractor against the Government or by the Government against a contractor shall be in writing. After the submission of a contract claim if the claim is not resolved by mutual agreement, the contracting officer shall issue a decision in writing stating the reasons for the decision reached. Specific findings of fact are not required, but, if made, shall not have binding or collateral estoppel status in any subsequent proceeding. A copy of the decision shall be mailed or otherwise furnished to the contractor and shall include a description of the method or procedure by which the finality of the decision may be avoided as provided in this Act.

(b) Absent fraud, the contracting officer's decision on the claim shall be final and conclusive and not subject to review by a forum, tribunal, or Government agency, unless an appeal or suit is timely commenced as authorized by this Act, in which event the proceedings in such an appeal or suit shall be de novo.

(c) A contracting officer shall issue a decision on any submitted claim promptly after he determines that a resolution of the

claim by mutual agreement is not feasible; but, in any event, he shall issue a decision within sixty days from his receipt of a written notice from the contractor stating the contractor's determination that resolution by mutual agreement is not possible. Any failure by the contracting officer to issue a decision on a contract claim within the period required will authorize the commencement of the appeal or suit on the claim otherwise provided in this Act upon the issuance of the decision by the contracting officer.

INFORMAL ADMINISTRATIVE CONFERENCE

SEC. 6. (a) It is the policy of the Congress that contractor claims should be resolved by mutual agreement, in lieu of litigation, to the maximum extent feasible. Accordingly, a contractor shall be afforded the opportunity to have informal conferences with the agency involved for the purpose of considering the possibility of disposing of the claim by mutual agreement. Such conferences may be held before, as well as after, a contracting officer's decision pursuant to section 5.

(b) The Administrator of the Office of Federal Procurement Policy shall issue regulations requiring executive agency establishment of procedures for such informal conferences at appropriate levels of authority within each such agency.

CONTRACTOR'S RIGHTS OF APPEAL

SEC. 7. Within ninety days from the date of receipt of a contracting officer's decision under section 5, or as otherwise provided in section 5, the contractor may

(a) appeal such decision to an agency board of contract appeals, as provided in section 8; or

(b) file with the executive agency a notice of intention to bring a court action as provided in section 10.

AGENCY BOARDS OF CONTRACT APPEALS

SEC. 8. (a) An agency head may establish within his agency a board of contract appeals when the volume of procurement by the agency justifies a full-time Board of at least five members. The members of an executive agency's boards of contract appeals shall be selected and appointed to serve as hearing examiners under the Administrative Procedure Act, and shall be designated as administrative law judges, *provided*, that such members shall have had (1) not fewer than five years experience in public contract law, and (2) two or more years of litigation experience, and *provided further*, that members of boards of contract appeals serving as such on the effective date of this Act shall be considered qualified. The Chairman of each Board shall be designated by the agency head from members so appointed.

(b) The Chairman of each Board having greater than ten members will receive the same compensation as a GS–18, the Vice Chairmen, GS–17, and all other members, GS–16. The Chairman of each Board having ten or fewer members will receive the same compensation as a GS–17, and all other members, GS–16. Such positions shall be in addition to the number of positions which may be placed in GS–16, GS–17, and GS–18 under existing law.

(c) If the volume of procurement is not sufficient to justify a board of contract appeals under sub-section (a) or if he otherwise considers it appropriate, an agency head shall arrange for appeals from decisions by contracting officers of his agency to be decided by a board of contract appeals of another executive agency or may, by agreement with the head(s) of one or more other executive agencies, establish a joint board. In the event an agency head is unable to make such arrangements, he shall submit the case to the Office of Federal Procurement Policy for placement with an agency board.

(d) A board of contract appeals, established under this section shall have jurisdiction to decide any appeal authorized under section 7 of this Act, (1) under a contract made by its agency, and (2) under a contract made by any other agency when such agency has designated the board to decide the appeal.

(e) A board of contract appeals, acting by one or more members in accordance with rules and regulations adopted by the board, shall issue a decision in writing or take other appropriate action on each appeal submitted and shall mail or otherwise furnish a copy of the decision to the contractor and the contracting officer.

(f) The decision of a board of contract appeals shall be final and conclusive unless it is fraudulent or—

(1) within one hundred and twenty days from the date of the contractor's receipt of a copy of the board's decision, the contractor files suit, under 28 U.S.C. § 1346(a)(2) in a United States district court or under 28 U.S.C. § 1491 in the United States Court of Claims to obtain judicial review of such decision, or

(2) within one hundred and twenty days from the date of the agency's receipt of a copy of the board's decision, the agency head, if he determines that an appeal should be taken, and with the prior approval of the Attorney General, transmits the decision of the board of contract appeals to the United States Court of Claims for judicial review, under 28 U.S.C. § 2510, as amended herein.

(g) In any action seeking judicial review pursuant to this section, notwithstanding any contract provisions to the contrary, the decision of the agency board on a question of law shall not be conclusive, but the findings of fact made by the agency board shall be final and conclusive and shall not be set aside unless such findings of fact are fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or are not supported by substantial evidence.

SMALL CLAIMS

SEC. 9. (a) The rules of each board of contract appeals shall include a procedure for the expedited disposition of any appeal where the amount in dispute is $25,000 or less.

(b) The small claims procedure shall be applicable at the sole election of the contractor.

(c) It is the intent of this section that appeals under the small claims procedure shall be resolved, whenever possible, within one hundred and twenty days from the date when the contractor elects to utilize such procedure.

(d) The small claims procedure shall provide for simplified rules of procedure to facilitate the decisions of any appeal thereunder within the one-hundred-and-twenty-day period set forth in paragraph (c) of this section 9. Such appeals shall be decided by a single member of the board with such concurrences as may be provided by rule or regulation.

SUIT IN COURT AND JUDICIAL POWERS

SEC. 10. (a) In lieu of appealing a final decision of a contracting officer to an agency board of contract appeals, a contractor, within twelve months from the date of receipt of such final decision, or from completion of the contract, or from acceptance where required, whichever is later, may bring an action on the claim in a United States district court or the United States Court of Claims.

(b) Where, on judicial review of an agency board of contract appeals decision pursuant to section 8(f) of the Act, the reviewing court determines that additional evidentiary proceedings must be conducted, the court may remand the matter to the Board, pursuant to Public Law 92–415 (28 U.S.C. § 1491) for the conduct of such proceedings: *Provided*, That where further evidentiary proceedings deemed necessary by the court are limited solely to the amount of recovery, the court itself may, in its discretion, conduct such proceedings.

(c) In any suit filed by a contractor under subsection (a) hereof, the court shall have jurisdiction over any setoff, counterclaim, or other claims or demand whatever by the United States.

(d) To provide an entire remedy and to complete the relief afforded by any judgment rendered pursuant to this Act, the Court of Claims may, as an incident of and collateral to any such judgment, issue such orders and grant such relief as the district courts may issue and grant in civil cases against the United States over which they have original jurisdiction.

(e) Except as otherwise provided in this Act, and notwithstanding any statute or other rule of law, or any contract provision, every claim founded upon the same express or implied contract with the United States, shall constitute a separate cause of action for purposes of any suit in a court of competent jurisdiction, and such court may, in its discretion, consolidate separate claims for purposes of decision or judgment, or delay acting on one claim pending action on another claim.

(f) If two or more suits arising from one contract are filed in different district courts, for the convenience of parties and witnesses, in the interest of justice, the district court wherein suit was first filed may order the consolidation of such suits in that court or transfer any such suit to any district or division where it might have been brought or to the Court of Claims. If two or more suits arising from one contract are filed in the Court of Claims and one or more district courts, for the convenience of parties and witnesses, in the interest of justice, the Court of Claims may order the consolidation of such suits in that court or transfer any suits to or among the district courts involved.

(g) In any suit filed pursuant to this Act involving two or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one such claim can be segmented for purposes of decision or judgment, and in any such suit where multiple parties are involved, the court, whenever such action is appropriate, may enter a partial final judgment as to one or more but fewer than all of the claims, portions thereof, or parties.

SUBPENA, DISCOVERY, AND DEPOSITION

SEC. 11. A member of a board of contract appeals may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpena the attendance of witnesses, and production of books and papers, for the taking of testimony or evidence by deposition or in the hearing of an appeal by the board. Persons acting in response to such subpenas shall be entitled to the same fees and allowances as are allowed by statute for witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena by a person who resides, is found, or transacts business within the jurisdiction of the United States district court, the court, upon application of the board, shall have jurisdiction to issue to such person an order requiring him to appear before the board or a member thereof, to produce evidence or to give testimony, or both. Failure of any such person to obey the order of the court may be punished by the district court as a contempt thereof.

INTEREST

SEC. 12. Interest at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41 (85 Stat. 97), for the Renegotiation Board, shall be paid to the contractor from the date the claim under section 5(a) accrues until payment under a final decision of the board of contract appeals, or a final decision of the court

of competent jurisdiction, or prior settlement thereof.

APPROPRIATIONS

SEC. 13. (a) Any final judgment against the United States on a claim under this Act shall be promptly paid in accordance with the procedures provided by section 724(a) of title 31, United States Code.

(b) Any final monetary award to a contractor by a board of contract appeals shall be promptly paid in accordance with the procedures contained in section (a) above: *Provided further*, That section 724(a) of title 31, United States Code, be amended by adding after the words "title 28" in line 11 thereof, the words "and decisions of boards of contract appeals".

(c) Payments made pursuant to sections (a) and (b) shall be reimbursed to the fund provided by section 724(a) of title 31, United States Code, by the agency whose appropriations were used for the contract out of available funds or by obtaining additional appropriations for such purposes.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

AMENDMENTS

SEC. 14. (a) There shall be added to subsection (c) of section 5108 of title 5, United States Code, a paragraph (17) reading as follows:

"(17) the head of an executive department or agency in which a board of contract appeals is established to conduct quasi-judicial administrative proceedings for the independent determination of contract disputes may place the position of Chairman of such board in GS–18, the Vice Chairman (or Vice Chairmen) of such board in GS–17, and the positions of all other civilian members of such board in GS–16: *Provided, however*, That for a board of contract appeals comprising membership of ten or fewer, a department or agency head may place the position of Chairman of such Board in GS–17, and the positions of all other civilian members of such board in GS–16.".

There shall be added to sub-section (d) of section 5108 of title 5, United States Code, a reference to sub-section (c)(17) wherever said sub-section (d) refers to sub-section (c) (8) and (9), to read as follows:

"(d) When a general appropriation statute authorizes an agency to place additional positions in GS–16, GS–17, and GS–18, the total number of positions authorized to be placed in these grades by this section (except sub-section (c)(8), and (9) and (17)) is reduced by the number of positions authorized by the appropriation statute unless otherwise specifically provided. The reduction is made in the following order:

"first, from any number specifically authorized for the agency by this section (except subsection (c) (8) and (9) and (17)); and".

(b) Section 2510 of title 28 of the United States Code is amended as follows: The title of the section is amended by adding the words: "OR THE HEAD OF AN EXECUTIVE DEPARTMENT OR AGENCY".

The present text iis amended by inserting "(a)" at the beginning.

There is added to the section the following:

"(b) The head of any executive department or agency may, with the prior approval of the Attorney General or his designee, transmit to the Court of Claims for judicial review pursuant to the standards set out in sections 321 and 322 of title 41, United States Code, any final decision rendered by a board of contract appeals pursuant to the terms of any contract with the United States awarded by his department or agency, which the said head of any department or agency has concluded is not entitled to finality pursuant to the review standards set forth in the said sections: *Provided*, That any such referral must be made within one hundred and twenty days of the agency's receipt of a copy of the final appeal decision."

"The Court of Claims shall proceed with judicial review on the administrative record made before the board of contract appeals on matters so referred as in other cases pending in such court, shall determine the issue of finality of the appeal decision, and shall, as appropriate, render judgment thereon or remand the matter pursuant to the authority specified in section 1491 of title 28, United States Code."

(c) Section 2517(a) of title 28, United States Code, is amended by striking the period and adding: ", unless the judgment is designated a partial judgment, in which event only the matters described therein shall be discharged.".

SEVERABILITY CLAUSE

SEC. 15. If any provision of this Act, or the application of such provision to any persons or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE OF ACT

SEC. 16. This Act shall apply to contracts entered into after the effective date of this Act. Notwithstanding any provision in a contract made before the effective date of this Act, the contractor may elect to proceed under this Act with respect to any claim pending then or initiated thereafter.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Mr. PACKWOOD relative to resolution of claims and disputes relating to Government contracts be referred jointly to the Committee on Governmental Affairs and the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL COSPONSORS

S. 1214

At the request of Mr. ABOUREZK, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1214, the Indian Child Welfare Act of 1977.

S. 1315

At the request of Mr. DECONCINI, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 1315, to provide more effectively for the use of interpreters in courts of the United States.

S. 1728

At the request of Mr. ANDERSON, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 1728, the Domestic Violence Prevention and Treatment Act.

S. 2036

At the request of Mr. STEVENS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2036, to promote amateur athletic activity in the United States.

S. 2187

At the request of Mr. METCALF, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 2187, to authorize certain construction at existing water projects.

S. 2193

At the request of Mr. ANDERSON, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2193, to amend the Communications Act of 1934.

S. 2204

At the request of Mr. GRAVEL, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 2204, to amend the Internal Revenue Code.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of Senate Resolution 242, relating to proposed changes in IRS policy toward fringe benefits.

SENATE JOINT RESOLUTION 97

At the request of Mr. MATHIAS, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of Senate Joint Resolution 97, to continue appropriations for fiscal year 1978 for employees' salaries of the Departments of Labor and Health, Education, and Welfare.

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. SPARKMAN, the Senator from California (Mr. CRANSTON) and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of Senate Concurrent Resolution 60, dealing with South Africa.

AMENDMENT NO. 1554

At the request of Mr. HATCH, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of amendment No. 1554 to be proposed to S. 2159, regarding U.S. foreign medical students.

AMENDMENT NO. 1581

At the request of Mr. GOLDWATER, the Senator from Alabama (Mr. ALLEN) and the Senator from Delaware (Mr. ROTH) were added as cosponsors of amendment No. 1581, to be proposed to the bill (H.R. 9346) the Public Assistance Financing Amendments of 1977.

## RESOLUTIONS SUBMITTED RELATING TO THE CONSIDERATION OF H.R. 9346

Mr. DOLE submitted the following resolution which was referred to the Committee on the Budget:

S. RES. 317

*Resolved*, That (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of an amendment to either H.R. 5322 or H.R. 9346 offered by Senator Dole relating to modifications in the provisions under which benefits for certain persons under title II of the Social Security Act are reduced because of their earnings; and

(b) That waiver of such Section 303(a) is necessary in order to enable the Senate promptly to consider changes in social security financing which are provided for in this amendment to H.R. 5322, in order to assure that the program is adequately funded, and which first become effective in fiscal year 1979.

Mr. TOWER submitted the following resolution which was referred to the Committee on the Budget:

S. RES. 318

*Resolved*, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of Amendment No. 1541, intended to be offered by Mr. Tower in the nature of a

substitute to H.R. 9346, the Social Security Financing Amendments of 1977. Such waiver is necessary to permit consideration of Amendment No. 1541, which would provide certain modifications in the present Social Security financing system to allow shifting of certain trust funds, modifications of the earnings limitation, changes in the dependency test solution, alleviating defective indexing provisions, and establishing an outside commission to consider permanent financing alternatives. The waiver of this section is necessary to enable the Senate to consider promptly changes in the Social Security financing system which are provided for in the bill.

Mr. GOLDWATER submitted the following resolution which was referred to the Committee on the Budget.

S. RES. 320

*Resolved*, That (a) pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of amendments to either H.R. 5322 or H.R. 9346 offered by Senator Goldwater relating to modifications in the provisions under which benefits for certain persons under Title II of the Social Security Act are reduced because of their earnings; and

(b) that waiver of such Section 303(a) is necessary to enable the Senate promptly to consider changes in Social Security financing which are provided for in these amendments to H.R. 5322 or H.R. 9346 in order to assure that the program is adequately funded in future years.

Mr. ALLEN submitted the following resolution which was referred to the Committee on the Budget:

S. 321

*Resolved*, That at the end of the bill add the following new section:

"There is hereby allowed to each individual taxpayer, who has paid Social Security taxes as an employee, as a deduction from income subject to Federal income taxes an amount equal to 50 per centum of all Social Security taxes paid by such taxpayer in the calendar year 1979 ad subsequent years, such deduction to be claimed on the taxpayer's return for the year in which such Social Security taxes are paid. Self-employed taxpayers may deduct 50 per centum of that portion of Social Security taxes paid by them that they would have paid on their earnings if they had been employees."

## SENATE RESOLUTION 319—ORIGINAL RESOLUTION REPORTED TO AMEND THE SENATE RULES—REPORT NO. 95-586

(Placed on the calendar.)

Mr. STEVENSON, from the Select Committee on Ethics, reported the following resolution:

S. RES. 319

*Resolved*, That the Standing Rules of the Senate are amended by adding at the end thereof the following new rule, which shall be a part of the Senate Code of Official Conduct:

"RULE LI—ACCEPTANCE AND REPORTING OF TRAVEL EXPENSES

"1. For purposes of this rule, the term—

"(1) 'travel expense' means transportation, lodging, food, beverages, and entertainment used, consumed, or furnished while in a travel status, and other services and facilities incidental to travel;

"(2) 'reportable travel expense' means any travel expense furnished by, paid for, or reimbursed by any person other than—

"(A) the individual incurring such travel expense or the spouse, a dependent, or a relative of such individual;

"(B) the United States Government or any agency or instrumentality thereof;

"(C) a foreign government (as defined in section 7342(a) of title 5, United States Code), if a statement therefor is filed under section 7432 (c) of such title; or

"(D) in the case of a travel expense incurred by the spouse or a dependent of an individual, by the employer of such spouse or dependent in connection with the performance of service as an employee or in recognition of the service provided by such spouse or dependent;

"(3) 'dependent' has the meaning set forth in section 152(b) of the Internal Revenue Code of 1954;

"(4) 'relative' has the meaning set forth in paragraph 7(j) of rule LXII;

"(5) 'person' includes a government and an agency or instrumentality of a government;

"(6) 'employee of the Senate' includes any employee or individual described in paragraphs 2, 3, and 4(c) of rule XLIX; and

"(7) the supervisor of an individual shall be determined under paragraph 12 of rule XLV.

"2. (a) Except as provided in paragraph 4, an officer or employee of the Senate and the spouse or a dependent of any such officer or employee, may not incur any reportable travel expense unless the supervisor of such officer or employee has approved in advance the incurring of such expense.

"(b) A Member may incur a reportable travel expense and may approve the incurring of a reportable travel expense by his spouse and dependents, and the supervisor of an officer or employee may approve the incurring of a reportable travel expense by such officer or employee or by the spouse and dependents of such officer or employee, if such Member or supervisor is of the opinion that incurring such expense would not violate any law or any rule of the Senate or reflect discredit upon the Senate.

"3. (a) Except as provided in paragraph 4, whenever any Member, officer, or employee of the Senate, or the spouse or a dependent of any such Member, officer, or employee, incurs a reportable travel expense, a report thereon shall be filed with the Secretary of the Senate within 30 days after the termination of the travel during which such expense was incurred. In the case of a reportable travel expense incurred by a Member, officer, or employee, the report shall be filed by that Member, officer, or employee. In the case of a reportable travel expense incurred by the spouse or a dependent of a Member, officer, or employee, the report shall be filed by that Member, officer, or employee. All reportable travel expenses incurred by a Member, officer, or employee, and by his spouse and dependents, in the course of the same travel may be included in one report.

"(b) Each report filed under subparagraph (a) shall be made in such manner as the Select Committee on Ethics may prescribe and shall include—

"(1) the dates and itinerary of the travel;

"(2) the purpose of the travel;

"(3) the person or persons who furnished, paid for, or reimbursed the reportable travel expenses;

"(4) the type or types of transportation used;

"(5) a brief description of the reportable travel expenses, including—

"(A) lodging provided and the dates;

"(B) dates on which meals were provided; and

"(C) entertainment provided.

"4. (a) Paragraphs 2 and 3 shall not apply with respect to any reportable travel expense incurred by the spouse of an individual if such individual and his spouse are separated and living apart.

"(b) Paragraph 3 shall not apply with respect to any reportable travel expense incurred by an individual if the amount or value of such expense, when added to the amount or value of al otiher reportable travel expenses incurred by the individual in the course of the same travel, does not exceed $100.

"5. Each report filed under paragraph 3 shall be made available to the public in the same manner, subject to the same conditions, and for the same period as reports filed under rule XLII.

"6. (a) A Member, officer, or employee of the Senate, and the spouse or a dependent of any such Member, officer, or employee, may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate, is in the interests of the Senate and the United States.

"(b) Any Member who accepts an invitation to participate in any such program, or approves the acceptance of such an invitation by his spouse or a dependent, shall notify the Select Committee in writing of such acceptance or approval. A supervisor who approves the acceptance of such an invitation by an officer or employee under his supervision, or by the spouse or a dependent of such an officer or employee, shall notify the Select Committee in writing of such approval.

"(c) No Member, officer, or employee, and no spouse or dependent of a Member, officer, or employee, may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary travel expenses of the Member, officer, employee, spouse, or dependent.".

SEC. 2. (a) Paragraph 7(f) of rule XLII of the Standing Rules of the Senate is amended by striking out "or" before "(4)" and by inserting before the semicolon at the end thereof the following: ", or (5) a gift of reportable travel expenses (as defined in paragraph 1 of rule LI)".

(b) Rule XLIII of the Standing Rules of the Senate is amended—

(1) by striking out "or" before "(7)" in paragraph 2(a) and by inserting before the semicolon at the end of such paragraph the following: ", or (8) a gift of reportable travel expenses (as defined in paragraph 1 of rule LI)"; and

(2) by striking out paragraph 4.

(c) Paragraph 1 of rule XLVI of the Standing Rules of the Senate is amended—

(1) by striking out "and" at the end of subparagraph (c);

(2) by inserting after "expenses" in subparagraph (d) the following: "(other than expenses to which subparagraph (e) applies)";

(3) by striking out the period at the end of subparagraph (d) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new subparagraph:

"(e) funds received as reimbursement for reportable travel expenses (as defined in paragraph 1 of rule LI).".

SEC. 3. The amendments to the Standing Rules of the Senate made by this resolution shall take effect on the day after the day on which this resolution is agreed to, and shall apply only with respect to travel expenses incurred on or after such day.

## AMENDMENTS SUBMITTED FOR PRINTING

### SUPPLEMENTAL APPROPRIATIONS, 1978—HOUSE JOINT RESOLUTION 643

AMENDMENT NO. 1613

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS. Mr. President, I am submitting an amendment to the continuing resolution permitting the Small Business Administration to draw not to exceed $1,400,000,000 under the authority of the resolution for disaster loans. This amount is identical to the sum approved by both Houses of Congress in the Supplemental Appropriations Act, 1978 now in conference to resolve differences in other items. It is now clear that the Supplemental Appropriations Act, 1978, will not be finally approved for several weeks. On October 31, 1977, the Small Business Administration announced that all available funds had been exhausted and that there were 11,000 applications on hand amounting to $946,800,000. It is imperative that this vital assistance be resumed to our drought-devastated farmers, and other disaster victims. In accordance with the usual procedure, obligations under this emergency authority will be charged to the appropriation when the Supplemental Appropriations Act is enacted.

And, Mr. President, joining me in submitting this amendment as cosponsors are Senators TALMADGE, NUNN, THURMOND, CHILES, STONE, and MAGNUSON.

### CAPITATION GRANTS TO MEDICAL SCHOOLS—S. 2159

AMENDMENT NO. 1614

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. EAGLETON, Mr. HELMS, and Mr. BUMPERS) submitted an amendment intended to be proposed by them to the bill (S. 2159) to amend section 771 of the Public Health Service Act to require an increase in the enrollment of third-year medical students in the school year 1978–79 as a condition to medical schools receiving capitation grants under section 770 of such act.

### PUBLIC ASSISTANCE AMENDMENTS—H.R. 9346

AMENDMENT NO. 1616

(Ordered to be printed and to lie on the table.)

ANNUAL RETIREMENT TEST

Mr. CHILES. Mr. President, I am submitting an amendment to change the monthly earnings test to an annual test for purposes of determining whether an individual is retired and thus eligible for social security benefits.

I think we should encourage older people to keep working to the degree that they are still physically able to. More than any economic considerations, the work situation provides a valuable social support that prevents the loneliness and isolation which so many of the elderly suffer. I have long supported increasing the level of allowable retirement earnings in order to encourage continued employment, and I congratulate the Finance Committee for providing significant increases in this bill.

At the same time, I believe it is necessary to be as fair as possible in how we calculate the earnings limit. One flaw in the current law is that it allows an individual to be retired in 1 month, working in another, and so on, without regard to how much is earned in the working months. Many people can regulate their flow of income by reasons of self-employment or ownership of a business. Thus, they can earn $100,000 in 3 months of the year, then "retire" and draw social security benefits for the rest of the year. They can then go back to work again the next year and repeat the pattern. Social security is for them just a bonus piece of income. At the same time, we tell a salaried employee that we will reduce his benefits 50 percent for any earnings over $3,000. This is obviously unfair and discriminates against the salaried workers who tend to have lower incomes. The Social Security Administration estimates that about 80,000 persons currently avoid the earnings limitation by this mechanism.

My amendment would correct this flaw by calculating the earnings limit on an annual basis. This improvement was recommended by President Carter in his 1978 budget. It was also recommended by the previous administrations in their budgets. It has also been recommended by the Social Security Advisory Commission, an independent body that is appointed by the Secretary of HEW to oversee the soundness of the system.

It was included in the House passed version of the bill. Now that we have a bill to make major changes in social security financing and increase the earnings limit, it is a good time to correct some of the flaws which have been draining the trust fund. This amendment will save $174 million in fiscal year 1978, $234 million in 1979 and more in later years. If we can cut down on a lot of these flaws in the benefit structure, we can minimize the tax increases necessary to keep the system solvent and pay a decent level of benefits to our retirees.

Mr. President, in order to make sure that the effects of this amendment would not have any negative effects on low income workers, I asked the Social Security Administration to calculate the number of persons at each income level who would have their earnings reduced. I ask unanimous consent to insert a table showing the results in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—*Percent of workers with reduced benefits under annual retirement test, by income (data from 1975)*

[In percent]

| Annual earnings: | *Workers with reduced benefits* |
|---|---|
| Less than $3,900 | 1 |
| $3,900–$5,400 | 6 |
| $5,400–$8,400 | 20 |
| $8,400–$11,400 | 26 |
| $11,400–$14,100 | 14 |
| More than $14,100 | 32 |
| All workers (total not add due to rounding) | 100 |

Mr. CHILES. Mr. President, it is clear that no more than 1 percent of the affected workers earns less than the expanded earnings limit of $3,900. That is, 99 percent are using this mechanism to avoid the limits we are imposing on low income workers who work every month of the year. Even assuming an increase in the earnings limit to $6,000 as provided in the Finance Committee bill, 93 percent of the affected workers would be exceeding the annual limit by means of the monthly computation.

I hope my colleagues will join me and support this amendment so that we can keep social security retirement benefits directed to those who really need them.

AMENDMENT NO. 1617

(Ordered to be printed and to lie on the table.)

MINIMUM BENEFIT AMENDMENT

Mr. CHILES. Mr. President, I am submitting an amendment to freeze the minimum benefit at the level of $121 which it is expected to reach on January 1, 1979. This is the same provision which passed the House without controversy last week. It includes a provision to improve the special minimum benefit for workers with more than 10 years of covered employment at low wage levels.

The minimum benefit is a classic example of the need for "sunset" legislation. It was a good idea when first adopted, but it has outlived its purpose. The original intent of the minimum was to provide a floor for low-wage workers and to keep the Social Security Administration from having to write checks for very small amounts. Several events have eliminated these needs. In 1972 Congress created a special benefit structure for persons with many years of work at low wages, thus meeting the primary need for a floor on benefits. At the same time we created the supplemental security income program which takes care of low income elderly, including those persons with only a few years of work history. Benefits under both of these provisions greatly exceed the social security minimum benefit. Finally, the age of computers makes it easy to apply the benefit computation formulas at any level and issue an appropriate check.

As conditions and benefit structures have changed, two types of individuals have emerged as recipients of the minimum benefit. First, we have individuals who work most of their adult life in Government jobs which are not covered by social security. Since their jobs are not covered, they do not contribute to trust funds. However, many Government pension systems, including the Federal one, have generous provisions for early retirement. As a result, Government workers may retire while they are still active and healthy, work a few years in private jobs covered by social security, then qualify for the minimum benefit. In these cases, the individual receives a benefit greatly exceeding what he would get based on his actual earnings and contribution to the trust fund. Of course he is also "double dipping" by drawing down his Government pension in addition to the $1,400 a year in social security. While I think we should encourage older workers to keep working if they are healthy

and active, we ought not to burden the system with paying benefits to persons who have not made an appropriate contribution.

Mr. President, I believe we really ought to freeze the minimum benefit for current beneficiaries and eliminate it for future retirees. The future recipients are not those who have put in long years of work and contributed to the trust fund in the expectation of receiving a specified level of social security benefits. However, when Mr. CORMAN offered that as an amendment in the House, it was defeated. I am therefore offering the same provision as in the House bill, which provides a very gradual transition, simply letting the value of the minimum benefit erode by excluding it from the provision that automatically increases benefits to match price changes.

I think the House was also wise to increase the special minimum benefit from $9 to $11.50 per covered year. In contrast to the regular minimum benefit, the special minimum only covers persons with over 10 years of covered employment. It is thus protected against double-dipping or from providing benefits to persons with a minimal attachment to the work force. The $9 multiplier has not been updated for inflation since the original amendment was adopted in 1972. However, since the House provision would not take effect until 1979, it would be out of order under the Budget Act. I feel very strongly that we should not be circumventing the budget process by passing future benefits that have not competed against other needs and priorities in the deliberations on the first budget resolution. I have therefore omitted that provision from my amendment and hope that we will be able to adopt it next year.

Mr. President, I hope my colleagues will join me in adopting this cost-saving improvement.

AMENDMENT NO. 1619

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted an amendment intended to be proposed by him to the bill (H.R. 9346), the Public Assistance Amendments Act of 1977.

## NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing and Urban Affairs will hold oversight hearings on the New York City Seasonal Financing Act on December 14, 15, and 16, 1977.

The hearings will examine, among other things:

New York City's progress toward meeting its borrowing needs in the private credit markets, both in the current year and after June 30, 1978, when the Federal loan program expires;

The prospects for the city's achieving a balanced budget in fiscal year 1978 and in subsequent fiscal years; and

The findings of the Securities and Exchange Commission's Staff Report on Transactions in Securities of the City of New York.

Anyone who wishes further information regarding these hearings should contact Ms. Elinor B. Bachrach, room 5300, Dirksen Senate Office Building, 202–224–7391.

NATIONAL INSTITUTE

Mr. BAYH. Mr. President, the Subcommittee on the Constitution of the Committee on the Judiciary will hold 2 days of hearings, December 13 and 14, on the constitutional amendment to allow for the use of the initiative process at the national level, Senate Joint Resolution 67. The hearings will commence at 10 a.m. on both days and will be held in room 2228 Dirksen.

Anyone wishing to submit testimony for the record, contact Mary K. Jolly, staff director of the subcommittee, 102B, Russell Senate Office Building, Washington, D.C. 20510.

## ADDITIONAL STATEMENTS

### THE PANAMA CANAL GIVEAWAY

Mr. FORD. Mr. President, a distinguished Kentuckian and good friend of mine, Judge Guthrie Crowe, recently provided me with a long and thoughtful essay on why the United States should not relinquish control of the Panama Canal.

Judge Crowe recently completed a 25-year tenure as Federal district court judge for the Canal Zone, a position he had held since his appointment in July 1952 by President Harry Truman.

Judge Crowe is a native of LaGrange, Ky. He is a lawyer and a former member of the Kentucky House of Representatives. He was the first commander of the Kentucky State Police, a department which was organized under his direction.

I have the highest respect for Judge Crowe and feel that my colleagues would benefit from reading his views on the Panama Canal Treaties. I ask unanimous consent that this article by Judge Crowe be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PANAMA CANAL GIVEAWAY

(By Guthrie Crowe)

OPENING

In my job as Judge, I had a ringside seat at the struggle by Panama for the Panama Canal. In fact, I had to try some cases and rule upon some matters that arose out of the problems between the U.S. and Panama.

A new treaty or treaties have been drafted as a result of the pressure from Panama, the U.S. Department of State, American banks and corporations like the 220 or more U.S. firms doing business in Latin America that have organized the Council of the Americas. Sympathy for the Third World also enters into the picture, for this is the era of the dissolution of the empires of the West and the U.S. position there has been stamped with the stench of colonialism.

The charge of colonialism is completely false, but it is like the communist lie: If you say it often enough, it will be believed.

The U.S. occupation of the Canal Zone is anything but colonialistic. There is no private ownership of real estate. The sole purpose to which the Zone is devoted is the operation of the canal. The U.S. citizens and all others who work there are required to leave the Zone upon retirement. The only private enterprise permitted has to do with shipping, except for a few limited services for the physical and spiritual welfare of the workers. There are churches, YMCA's, 3 or 4 dentists, tailors and shoe repairmen and private clubs, but nothing else. These services are strictly controlled by the C.Z. Government and have rental agreements or land leases that can be terminated by the Governor at will. Congress made one exception in that it granted to the Sojourners' Masonic Lodge in Cristobal, title to the land on which its lodge building stands.

The Zone was not acquired by invasion as was the wont of the governments that participated in empire building, but it was bought and paid for and our entry was at the behest of the people of Panama who looked upon the Americans as saviors who could wrest victory out of the French failure and would do as has been done—give to Panama a flood of gold, employment and success that she so desired.

Presently, the two-headed complex entitled the Canal Zone Government and the Panama Canal Company which own and operate the canal and the zone, employ about 3,500 Americans and about 12,000 Panamanians. The Panamian employees receive excellent wages and are participants in U.S. retirement programs. It has been the policy for years for these entities to give preference to Panamanians in employment in all but certain security jobs, although most of the top jobs are held by Americans because of their technical expertise and seniority.

Careful studies show that millions of U.S. dollars flow into the economy of Panama annually from the relationship and the U.S. is a very benign and helpful partner. Our military also spends millions of dollars there and employs many Panamanians in posts of responsibility and good pay. These employees are like all people in that they are organized and make additional demands for better pay and working conditions but, generally speaking, they are contented and know full well that when Panama gets control, they may lose their jobs and those that are retained will be kept at a lower wage and with the loss of other benefits.

Panama's money is backed by the U.S. and is kept on a parity with the U.S. dollar and she has over seventy banks in Panama City that deal in international exchange. Recently, there has been a great deal of construction and the faces of her cities have changed markedly and belie the assertion that Panama is the victim of U.S. colonialism and that we have appropriated from her her greatest asset.

Actually, the canal is no longer paying its own way. The tolls for years were kept at a minimum and it was the pride of the U.S. that ships went through the canal paying the same rate of tolls that they did at the time it was opened. These tolls remained unchanged for a period of 60 years, although there was a good deal of belt-tightening done to accomplish this. Canal Zone workers who had received many free benefits were forced to pay for them and overseas differentials to the U.S. workers were reduced.

In 1973, for the first time in history, the canal lost money and tolls were increased.

In 1963, in the Panamanian newspaper "El DIA", a prominent and much read columnist of Panama wrote that he took a dim view of the U.S. leaving the canal for Panamanian operation. He said he could not forget what happened to the U.S. base at Rio Hato in Panama after it was abandoned, at Panama's insistence. Everything was stripped from it and nothing left, despite plans and avowals to make use of the installation.

Gen. Omar Torrijos, the dictator, himself

said from his hammock as reported by Washington Post correspondent, Marlise Simons, from Mexico City and carried in the Miami Herald on June 4, 1977, "There will be a vast political vacuum we will have to fill. I am thinking a lot about that. We will no longer have the gringos to blame." She reported further that while "international trade increased 10 percent last year, Panama's own gross national product registered no growth. This has brought new taxes, a total halt in the recently booming construction and high unemployment." She wrote, "The Government has been forced to cut back on deficit spending as commercial banks have become reluctant to increase the country's foreign debt."

The American Legion National Security and Foreign Relations Bulletin of July–August 1977 reported, "Banks and bankers have a way of influencing presidents and nations. United States and their foreign branches' banks have invested 2.77 billion in the Torrijos' Government. No one but Torrijos and his bookkeepers know the full extent of his Government's indebtedness to banks other than the U.S. Could the total indebtedness run to $5 billion?"

SEPARATION OF POWERS

The U.S. House of Representatives has taken the position by resolution and there is strong concurrence by some members of the Senate, that the Canal Zone is territory of the United States and cannot be disposed of except with the concurrence of both Houses of the Congress. The provision of the Constitution relied upon in assuming this position is Article IV, Section 3, Clause 2 which states:

"The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

I had the honor of testifying before a Subcommittee of the Senate Committee on the Judiciary in July with Senator James Allen of Alabama as Chairman, on the question of separation of powers and it was the sense of the testimony that this is the law.

I don't know exactly what would happen if the President and the Senate approve a new treaty and fail to seek a concurrence of the Lower House. Any attempt on the part of Congress to seek judicial relief would, of course, take place in our own Federal court system and any decision would be unilateral in its effect and would not in any sense be binding on Panama.

TITLE IN THE UNITED STATES?

Does the U.S. or Panama own the canal? This question has been bruited about by legal scholars and politicians so much that anything I say will, of course, be repetitious to some ears. I personally believe that the U.S. has a good title that could be defended in any courts that base their thinking on the English laws of Real Property and its historical precedents.

We are bound by the intentions of our leaders at the time of the acquisition of the Canal Zone in 1903 and we should insist that the people of Panama be bound by the intent of their leaders and people at the time.

First, let us turn to the basic document that gave rise to the construction of the canal, the Act of Congress called the "Spooner Act" of June 28, 1902, 32 U.S. Stat., 481. Section 2 of the Act is in part as follows:

"That the President is hereby authorized to acquire from the Republic of Colombia, for and on behalf of the United States, upon such terms as he may deem reasonable, *perpetual* control of a strip of land, the territory of the Republic of Colombia, not less than six miles in width, extending from the Caribbean Sea to the Pacific Ocean, and the right to use and dispose of waters thereon, and to excavate, construct, and to maintain, operate, and protect thereon a canal, of such depth and capacity as will afford convenient passage of ships of the greatest tonnage and draft now in use, from the Caribbean Sea to the Pacific Ocean, which control shall include the right to *perpetually* maintain and operate the Panama railroad . . . ."

The Act goes on to say in Section 4 that if the President is unable to obtain for the U.S. control of the necessary territory from Colombia, he should obtain "perpetual" control by treaty of the necessary territory from Costa Rica and Nicaragua.

It might be just as well at this point to recite what the United States did in payment for the Canal Zone.

(1) The Spooner Act provided that the U.S. should pay $40,000,000 for all of the property "real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama . . . including all the capital stock of the Panama Railroad Company" and this was paid in full.

(2) Under Article 14 of the Hay-Bunau-Varilla Treaty of 1903 (which will be discussed more in detail later, the U.S. agreed to pay to the Republic of Panama $10,000,000 in gold coin and also an annual payment of $250,000 in gold coin beginning nine years after the date of ratification. This was paid and the $250,000 payments were greatly increased during the administrations of Franklin D. Roosevelt and Dwight D. Eisenhower.

(3) Article 5 of the Treaty sets up a plan for a joint commission composed of people appointed by the "Governments of the United States and the Republic of Panama" to assess damages and appraise damages to private land holders in the area of the Canal Zone. This commission acted and titles to the private lands were acquired by the United States, which paid approximately $5,000,000 for the deeds and bills of sale; and

(4) In view of Colombia's unhappiness with the situation and her claims of injury, a treaty between the U.S. and that country "for the settlement of their differences arising out of the events which took place on the Isthmus of Panama in November" was signed at Bogota on April 6, 1919 and ratified March 1, 1922. This treaty provided that the title to the interoceanic canal and the Panama Railway" is now vested entirely and absolutely in the United States of America, without any encumbrances whatever", and that the U.S. would pay to the Republic of Colombia at the city of Washington the sum of $25,000,000 which was done.

Many who would espouse the demands of Panama have claimed that our position there is only a limited one; that we have merely a leasehold or what is known in English and American law as a defeasible fee; that nothing can be in perpetuity, therefore, the language "in perpetuity" is self-defeating. Legal scholars know this is just not so. The general warranty deed which expresses in no uncertain terms that the buyer of the land is to have and to hold the land forever with covenant of general warranty, is the commonest of transactions in the conveyance of real estate and in English and American law it means just what it says. Congress, in the Spooner Act, mandated the President to obtain the Canal Zone in perpetuity and the treaty of 1903 was drafted in compliance with that demand so it would be approved by the President and the Senate.

The disputed parts of the 1903 Treaty are Articles 2 and 3. The language of Article 2 that has caused so much controversy is the following:

"The Republic of Panama grants to the United States in *perpetuity* the use occupation and control" . . . of the area in dispute and further,

"The Republic of Panama further grants in like to the United States in *perpetuity* all islands within the limits of the zone . . .".

Article 3 states in full:

"The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article 2 of this agreement and within the limits of all auxiliary lands and waters mentioned and described in the said Article 2 which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion by the Republic of Panama of any such sovereign rights, power or authority."

Those who support the position of Panama have placed great emphasis upon the language in Article 3 stating, "if it were sovereign", which they read to be a denial of the fact that it is sovereign and therefore the United States does not have title. In doing this, those interpreters ignore the subsequent language, "to the entire exclusion by the Republic of Panama of any such sovereign rights, power or authority." Language that is any more certain of divestiture can hardly be imagined.

Maybe the Treaty shouldn't have used the words, "which the United States would possess and exercise if it were the sovereign." It would only have deprived the Nationalists of Panama of a part of their ammunition for they claim that no matter what, we took advantage of Panama in a weak period and they want their canal "back", even though it means invasion of the Zone and loss of life by their people.

The only time that the Supreme Court of the United States has made any determination of the question of title to the Canal Zone was in the case of Wilson v. Shaw, Secretary of the Treasury, decided on January 7, 1907 and reported in 204 U.S. at Page 24. This was a suit to restrain the Secretary from paying out money in the purchase of property for the construction of a canal at Panama. The Court denied the relief sought and Mr. Justice Brewer wrote the opinion of the Court, and said:

"It is hypercritical to contend that the title of the United States is imperfect and that the territory described does not belong to this nation because of the omission of some of the technical terms used in ordinary conveyances of real estate.

"Further, it is said that the boundaries of the Zone are not described in the Treaty; but the description is sufficient for identification, and it has been practically identified by the concurrent action of the two nations alone interested in the matter. The fact that there may possibly be in the future some dispute as to the exact boundary on either side is immaterial, such disputes not infrequently attend conveyances of real estate or cessions of territory. Alaska was ceded to us forty years ago, but the boundary between it and the English possessions east was not settled until the last two or three years. Yet no one ever doubted the title of this Republic of Alaska."

This decision should have great influence on the attitude of our nation toward its ownership of the area but, strange to relate, our Department of State has consistently chosen to adhere to a policy of recognizing Panama as the "titular sovereign", whatever that means.

The 1903 treaty was ratified after it had been unanimously approved not only by the commissioners of Panama but by all of the municipalities and elective bodies of the Republic and by the votes of its citizens as well, as stated by Charles E. Hughes, Secretary of State to Ricardo J. Alfaro, Minister of Panama, at Washington on October 15, 1923. U.S. Foreign Relations (1923), Vol. II, pp. 648–675.

The statement by Gen. Torrijos that any new treaty will this time be submitted to the people carries with it the implication that the 1903 treaty was adopted without the

voice of the people. This is merely a ploy to the ones ignorant of the true facts.

ATTITUDE OF PANAMA AT TIME OF 1903 TREATY NEGOTIATIONS

At the time of the reovlution against Columbia, the governing authority in Panama was called the "La Junta Revolucionaria" or "Proceres de la Independencia." These gentlemen made a report in Spanish to the "Convencion Nacional Constituyente" on January 15, 1904 which was signed by J. A. Arango, Tomas Arias and Federico Boyd and translated is as follows:

"It is an essential condition of the Treaty, The obligation perpetual that the U.S. has accepted of guaranteeing the independence of our country. That agreement on a point of such vital importance since it is related with the very existence of the nation, that lacking such a guarantee would see itself exposed to external aggressions whose fear would maintain us obligated to remain in a constant state of defense, is evident proof of the good faith and of the spirit of justice that animate that friendly people that have extended to us a generous hand. The Treaty, appreciated with strict judgment, can seem unfavorable to us in certain aspects, but estimating it as are estimated the works calculated to change the face of nations, considering it at least as the seed of incalculable benefits that must favor the most remote posterity, the Treaty realizes very noble and elevated aspirations."

This statement, contemporary with the Treaty, far more truthfully reflects the feeling of the era in which it was drafted and signed than does the Monday morning quarterbacking of today's writers and diplomats.

The people of Panama had been bitterly disappointed by the French failure and their golden dreams had been shattered. The U.S. came along and offered them, not only rescue from defeat but protection from their powerful neighbor, Colombia, that had kept them under subjection for so many years. To say that the U.S. stole the Canal Zone is not only completely untrue but absurd.

Statutes of the Junta Revolucionaria adorn certain parks in Panama for they were once in high repute, but in recent years it has not been unusual to learn that they have been damaged and to hear demagogues revile them in their speeches.

During the period that the U.S. has had the Canal Zone it has eliminated the dread yellow fever and malaria, creating a healthful, beautiful area. The people are industrious and keep their yards full of flowers and plants. The ships of all nations have gone through the canal like clockwork with a brief delay only once caused by labor problems between the pilots and management.

It is interesting to note at this time that very few Panamanians actually worked in the construction of the canal. The powerful physiques of the West Indian Black men formed the great bulk of the work force and the engineering and management was done by U.S. citizens. Panama had a population of only about 300,000 people at the time, so with half being women and the exclusion of the children and the old from the males, there was only a small force available. Many of those continued to work their farms and conduct their private businesses, so their contribution was minimal.

Hon. George Westerman, former Ambassador to the U.N. from Panama has written an excellent book on the subject and researched it exhaustively.

AMERICAN BUSINESSMEN AND SHIPPERS

It may surprise some that American shippers have not voiced opposition to a transfer of the canal as it would place their ships in transit, subject to the whims and vagaries of a one-man regime. These companies are in many instances properties of conglomerates who have wide interests in Central and South America and they are willing to take their chances with Panama rather than "rock the boat." They are also beneficiaries of government subsidies and do not wish to projudice this by opposition. Any increased tolls can also be passed on to the consumer, American taxpayer, in the form of increased shipping charges.

The businessmen of Panama who receive the benefit of millions of dollars spent by the Canal Zone governmental agencies and the employees, are horrified by the possibility of the loss of this trade but they are afraid to speak out for fear of reprisals.

COMMUNIST DICTATOR IN CONTROL

Panama is a dictatorship with many communists holding prominent positions in her government. The Canal Zone Non-profit Public Information Corporation reports that Torrijos and every person in control of government offices today is identified with the Communist Party.

Recently Torrijos and several plane loads of his leaders spent a number of days with Castro in Cuba and there is a regular airline running between the two countries. The Embassy of Cuba in Panama City is large and luxurious and responsible people tell me that there are Cuban mercenaries in the interior.

In the "Miami Herald" of July 2, 1977 the UPI with Washington Dateline stated that four retired Chiefs of Naval Operations appealed to President Carter not to give up control of the Panama Canal. The four admirals "Thomas Moorer, Arleigh Burke, George Anderson and Robert Carney described the waterway as a 'vital portion' of U.S. naval assets and 'absolutely essential to free world security.' "

The admirals argued that the canal is increasingly important to the U.S. because of the reduced size of our fleet. The passage from the Atlantic to the Pacific permits quick repositioning of U.S. ships from one ocean to another, particularly in time of crisis.

A few aircraft carriers cannot transmit the canal, but the day of the carrier is past. The nuclear submarine with its deadly missiles can pass through the canal with consumate ease. If Torrijos or a similar successor controls the canal, movements of U.S. warships would be subject to his dictates when requesting passage no matter what the treaties contain and Castro and his Soviet henchmen would have a strong voice in canal policies.

The oil from Alaska is of such chemical content that it cannot be refined in the refineries of the West Coast. This means that great quantities must transit the canal to the East Coast. If the Panamanian dictatorship can control this flow of energy that is vital to the commerce and welfare of the U.S., we will be placed in a position of beseeching alms from a person who has constantly rattled the saber in his rambling speeches throughout Panama and Central America and has given evidence of harboring a deep grude against us that would make reasonable dealings impossible. As the looters in the New York blackout, he would justify mistreatment of the U.S. by claiming that she was guilty of years of oppression and abuse toward Panama and it was therefore her day to retaliate toward the colossus of the North who had wrested from her her most valuable asset.

The present Panamanian government was established by a military coup when a democratically elected president, Arnulfo Arias, was ousted from office by the Guardia Nacional, Panama's army, because he planned to name a general of his own choosing as its head. There was no uprising of the people, and no anger against the existing government or its form. In fact, the people were happy with the election of their hero, who had been elected by them twice before.

The so-called "revolucion" was nothing but a power play by a group of men who had all of the guns and who just decided to take over the reigns of government and establish a dictatorship for their own benefit. Many of these men have become very rich and have unlimited power.

Just how President Carter can harmonize his advocacy of "Human Rights" by attempting a transfer of the canal to a government that has deprived its citizens of democratic rights, has eliminated freedom of the press, exiles native-born citizens and incarcerates its citizens without fair trials is beyond comprehension. I believe that he is the victim of a great deal of misinformation and is overpersuaded by his zeal to curry favor with the other southern countries and avoid conflict.

A recent report by Jack Anderson, political columnist is strongly indicative of the type of mentality that controls Panama's affairs. Anderson said, "There is disturbing evidence that Panama's strongman, Omar Torrijos, has struck a secret deal with Libya's wildman, Muammar Quaddafi, to give the Arab extremist a foothold in the Americas and to cooperate with the Arab boycott against the Jews. The erratic Kaddafi is regarded as one of the world's most irresponsible rulers.

He has armed radical terrorist groups, tried to purchase nuclear weapons, subsidized Uganda's zany Idid Amin and engaged in various harum-scarum intrigues." The article dated June 6, 1977 said further that two months ago Torrijos and Qaddfi pledged allegiance to each other and recent antisemitism has been reported in Panama. All this because Torrijos is so badly in need of funds to run his government that he might turn against the Jews in return for Arab petrodollars.

CANAL NOT OBSOLETE

The tales indulged in by those who would surrender the canal are to the effect that it is obsolete and no good anymore for the world's ships are too large for it. Nothing could be further from the truth says David McCullough. In his recent best seller, "The Path Between the Seas," he wrote that the supertankers that can't go through represent a tiny fraction of the ships at sea. "If there is a problem with the canal, it's that too much traffic wants to go through it. There are 14,000 to 15,000 ships a year going through the canal today. Far more than ten years ago and less than will be ten years from now."

Canal Zone's Gov. Harold Parfitt said at a recent hearing of a subcommittee of the U.S. Senate, about 92% of the ships of the world can transit the canal. This certainly gives the lie to those who prate of the antiquity of the "big ditch."

SECURITY OF UNITED STATES

It is interesting to see that President Carter and his negotiators are stressing the fact that the new treaties will benefit the security of the U.S. This is one of the imponderables that the propagandists would thrust upon us.

We now have full control in perpetuity.

We have our troops there who can be armed, massed and used at our discretion. Our technicians, our engineers, our pilots and other U.S. citizens are there to insure the safe operation of the canal. Our police and our courts are in control of law enforcement. Lt. Gen. McAuliffe, Commanding General of the Southern Command in his testimony before the Senate Subcommittee July 22, 1977 said that with a few more men he could defend it.

As publicized, under the new treaties Panama will have much control in 3 years and she will have control of 70% of the land immediately. This land has long been considered vital to the operation of the canal and the safety and security of the people living in the Zone. Millions of dollars will be paid out to Panama as loans and grants and as a part of the tolls when the canal is already losing money.

How in the world can anybody in his right mind think that our security is insured with these changes and with a Communist-minded dictator in control of the government receiving these benefits.

The dictator has been rattling the saber in every speech he has made about the canal. He has constantly threatened the Zone with invasion and promised to lead this generation to take the canal by force. Now we would turn it over to him and pay him great sums of money in protection and our leadership talks of increased security.

Already certain Panamanian factions are disgruntled because the canal will not be completely surrendered immediately. They are grousing because our troops will be left in certain territories and there are words in the treaties that would let the U.S. perpetually protect the neutrality of the canal after Panama gets full control.

I was in Panama the time of the Remon-Eisenhower Treaty of 1955 and the ink was not dry before dissident factions were shouting against the U.S. and the same will happen this time. Our people apparently will never learn to cope with the communist-type mentality that is never satisfied and constantly clamors for more and more and more.

There is only one way to deal with people of this kind and it is not in the payment of protection money nor in the ceding of rights. The only way is by a strong position that will be respected. The constant assumption of guilt, the tearful cries that we have mistreated Panama over the years and admissions to false charges of colonialism that have been accepted by our State Department are not the methods to guarantee our security. We will not only endanger our position but we will lose the respect of the nations of the world. They know we bought it, built it, and should continue to operate it unhampered for our benefit and theirs.

COLONIALISM AND TREATY OUT OF DATE

Those sponsoring a new treaty with Panama label the opposition as red-necked chauvinists who are clinging to a relic of the colonial period of the U.S. and who would mistreat a friendly little country.

In the language of our liberal press, those who feel that a relinquishment of the canal would endanger the security and welfare of the U.S. are "jingoistic demagogues" who in some unknown but positively malicious and vicious manner hope to realize personal gain from their position. They write that the 1903 treaty is antiquated and that its provisions are archaic and a revision is long overdue.

Well, a few of those charged with chauvinism are the four retired chiefs of Naval Operations I have named, Admirals Moorer, Burke, Anderson and Carney. Another suffering the same charge is Herman Phleger, one of the most distinguished lawyers in the country, legal advisor to the Department of State under Eisenhower and architect of the far-reaching Antarctic Treaty. His position, well taken, that the U.S. operated under duress.

Those who would gain materially are not the little so-called "red necks" but the big American banks that have loaned millions to the dictator and need to be bailed out as he is on the verge of bankruptcy. The big businessmen that feel they stand to lose by being ejected from Panama and sympathetic countries, also view new treaties as opportunities to improve their positions.

For those bleeding hearts that say solemnly that the treaty "drafted in 1903 is badly outdated" have just failed to read their diplomatic history. Panama and the U.S. have been negotiating almost without interruption since the original treaty was signed.

A "Claims Convention" adjusting claims between the citizens of the two countries was celebrated in 1926 and modified in 1932.

Another Claims Convention was celebrated in 1950 and an arrangement for customs and space was celebrated in 1960 with an addendum in 1962.

In 1942 there was an agreement for the lease of defense sites which had to do with roads, airbases, lands, buildings, etc.

In 1904 there was a treaty for the mutual extradition of criminals which was amplified in 1906.

Also in 1904 there was a monetary agreement celebrated between the countries wherein the U.S. agreed to keep the monetary units of Panama at a parity with the U.S. dollar and that agreement was negotiated and amended in 1930, 1931, 1936, 1946, 1950, 1953 and 1962.

In 1936 a "General Treaty of Friendship and Coorperation" which was motivated by the "desire to strengthen further the bonds of friendship and cooperation between the two countries", was celebrated.

In 1942 they celebrated the "General Relations Agreement."

In 1955 with much ceremony and publicity was celebrated the "Treaty of Mutual Understanding and Cooperation" abrogating and changing many points of difference in the treaty of 1903.

After the riots and border incidents of January 9, 1964 the parties began another series of negotiations and in 1967 the negotiators had agreed. When this three-part treaty was made public there was a general roar of opposition voiced by the vocal elements in Panama and as a consequence it was never ratified.

TEDDY ROOSEVELT'S STATEMENT

Many who attack the U.S. control point to statements made by Teddy Roosevelt before Congress or in the heat of a political campaign when it was popular for us to have undertaken the tremendous effort to build the canal, when he was reputed to have said, "I took the Isthmus" or "I took Panama." They scornfully state that such statements were an indication of "big stick" tactics and that now we should humbly make reparations and apologize.

In Roosevelt's autobiography which describes the faithlessness of J. M. Marroquin, the dictator of Colombia at the time and the impossibility of completing a treaty with that country, he says,

"No one connected with the American Government had any part in preparing, inciting, or encouraging the revolution, and except for the reports of our military and naval officers, which I forwarded to Congress, no one connected with the government had any previous knowledge concerning the proposed revolution, except such as was accessible to any person who read the newspapers and kept abreast of the current questions and current affairs. By the unanimous action of its people and without the firing of a shot, the State of Panama declared themselves an independent Republic."

I choose to believe the autobiographic statement made in an atmosphere of reflection, as to what actually occurred rather than polemic declarations made during the violent discussions that were the order of the day when Teddy was running for office.

FRIENDLY NEGOTIATIONS?

We are told by the Department of State and the American negotiators that we should do justice to a friendly little country and that the proposed treaties have been negotiated in an atmosphere of friendly cooperation. We then learn that Sr. Romulo Escobar Bethancourt, chief negotiator for Panama, has said to a group of government officials in a speech since agreement has been declared, that if the U.S. Congress rejects the treaty the Panamanians will "take the road to violence" and he said further, "Omar Torrijos has tried to get the negotiations to work out because we did not want on our conscience the deaths of our youths." These are naked threats quite obviously made to incite the Panamanians and to frighten the U.S. Congress.

Panama is small with less than 2 million people but it has a well-armed, well-trained fighting force skilled in the arts of guerrilla warfare and sabotage. These threats are made by a group of ruthless opportunists who not only are demanding the surrender of U.S. property but have the monstrous gall to demand that the U.S. pay them to take it. It is reported that Castro urged Torrijos to scale down his demands and accept what the American negotiators offered. So much for our naivete.

The canal has always been vulnerable to sabotage but wrecking it would certainly not be to Panama's advantage. If attempts at sabotage are in mind, a treaty that delays full control to Panama for 20 or more years will not deter the radical saboteurs.

The dictator and his crew are engaging in psychological warfare when they threaten invasion and hoping that an America sickened by Vietnam will weaken to avoid a similar tragic mess. The obvious answer is that Panama has no such size or resources and no neighbors willing to support her.

Panama needs tourist trade and foreign investments and to develop a situation of guerrilla activity like in Ireland and other parts of the world would be most destructive to her and her people and would soon overthrow Torrijos and sue for peace.

UNITY OF CENTRAL AND SOUTH AMERICAN COUNTRIES IN SUPPORT OF PANAMA

Torrijos would have us believe that the Central and South American countries are united behind Panama in her demands and the U.S. negotiators hold over us the specter of loss of trade opportunities and rapport with those countries in the event we fail to cede. Nothing could be further from the truth. At a recent meeting in Colombia to express solidarity only five leaders were present: Colombia, Costa Rica, Venezuela, Panama and Mexico.

Anyone familiar with the history of Central and South American countries with their border wars and revolutions knows that all is not sweetness and light between them and their leaders will do exactly what they think is right for themselves. Unity between them is a myth that should be given no credence by responsible men.

Marilyn Guardabassi, who writes "A Woman's View" stated in her column of Aug. 22, 1977:

"Carter's insistence that Latin American countries are in favor of our relinquishing the canal or that such a move would enhance our image is false. Three quarters of all Latin American countries wholeheartedly support our maintaining our sovereignty, particularly those located on the Pacific Coast, for they realize that American control is their only guarantee that the canal will remain open to world shipping. This giveaway, and especially under duress from a two-bit dictator, makes us look ridiculous, not only in this hemisphere, but in the eyes of the world."

Dr. George W. Fontaine, Director of Latin American studies at Georgetown University in an article opposing the treaties written for the Wall Street Journal on Aug. 22 states:

"Yet even though no Latin American regime publicly supports the United States, the depth of pro-Panamanian feeling varies considerably from country to country. It is strongest in Venezuela, Colombia and possibly Mexico; it is weakest in the southern cone of South America. For example, Brazilians, heavy users of the canal, have privately expressed deep misgivings over Panamanian control."

Latin Americans are highly intelligent people. Many are internationalists, educated in Europe, the U.S. and other parts of the world. Each nation is separate and distinct, and proud of its own culture and traditions.

Many customs have been handed down from the "Mother Country, Spain", but they have developed their own dances, music, art and literature. Some say that their national sport is revolution.

They cannot be lumped together as they have different climates, ethnic groups and geography and they must be dealt with individually. Nicaragua is a great friend of the U.S. but I can remember when we sent Marines there to protect our interests and we were thoroughly hated. Costa Rica was a short time ago our great friend but now she has been weaned away and although she and Panama once had a border "war" she now sides with Panama against us.

Brazil was once against us and she is now a good friend, Chile and Peru were once our friends and now they are not nor are they friendly to each other.

All of the countries have their individual economic problems that are frequently competitive and they are looking for markets and opportunities. If they feel that the U.S. will serve them better in the Canal Zone they will be for U.S. retention although some of their demagogues and radical elements will give lip service to Panama.

I am minded of the statement about Europe that the Italians hate the Germans and the Germans hate the Italians. The English hate the French and the French hate everybody. An analysis of the Central and South American countries would reveal a comparable situation.

CONCLUSION

Our President has been badly advised by a group of State Department officials and emissaries of banks and big business. He is desirous of forming a new relationship with the Central and South American countries and he believes that the proposed new treaties will effectuate an era of friendship and cooperation. He is to be commended for his desires as a great deal must be done in this hemisphere.

There was a time when American products led the way. Asiatic and European automobiles, appliances and products have captured the markets, not because of the canal problem but because they are cheaper, of good quality and are just outselling our products. There has never been any great love in Panama for the Asiatics but they are going great today.

Communist countries are constantly seeking footholds in the great South American continent with its tremendous natural resources and population explosion. If we lose the canal they will have acquired a great position of vital importance.

Weakness is not the answer and as publicized the present proposals are weak. They will only whet appetites for additional concessions tomorrow.

The talk of a sea level canal is smoke screen and the present treaties are not binding upon Panama to permit us preference that could be enforced except by some military intervention and it would be hard to imagine the U.S. going into Panama with an army to build a sea level canal.

Our country spent 17 million dollars exploring the possibility of constructing such a canal and suggested that it could be done in the rugged area of Panama near the Columbian border with nuclear devices but Panama was horrified at the thought. Suggestions that such a canal could be built with conventional digging equipment were equally unwelcome as it would cause the death of the terminal cities of Panama City and Colon. The present lock canal provides those cities with great commerce from the ships that stop enroute through the locks and a sea level canal located anywhere would kill that trade.

The ecologists are up in arms about such a canal for the dangers to the great fishing industries. The present canal is a body of fresh water that successfully prevents mixing of the flora and fauna between the oceans. What would happen if a sluice way of salt water were to be opened between them is a matter of great concern to scientists and engineers.

The U.S. owns the canal and the surrounding lands. Why not keep them? Panama should probably receive additional benefits because of the overtures made by our government and our desire to retain her friendship but the people of the U.S. must recognize that as long as we have a presence there of any kind there will be outbreaks of hostilities. When she was part of Colombia Teddy Roosevelt recites that there were 53 revolutions in 57 years.

During my 25 years in office there were 2 strong attacks on the C.Z., 1959 and 1964, and there were many abortive attempts on the part of students and communists. Also, there were, of course, internal problems with the assassination of President Remon and the coup which put the present dictator in power.

We should not place the security and commerce of our nation in the hands of a hard drinking, meagerly educated, communist-leaning dictator who is threatening the U.S. with "give us the canal or else." This man lives by the sword and could die by the sword and a new leader could regard any treaty as just so much paper.

There is the possibility of bloodshed under the present arrangement as there is under any new arrangement. History has demonstrated that such is the way of life in Panama.

There is no honor in appeasement and blackmail leads only to violence.



## JIM RICE

Mr. THURMOND. Mr. President, the major league baseball season recently concluded with a flurry of excitement. Reggie Jackson accomplished the unprecedented feat of hitting three home runs on three consecutive pitches in the sixth game of the World Series to give the New York Yankees their first world championship in 13 years.

It was entirely fitting that the World Series should end in such an exciting way, for this was a year of outstanding individual accomplishment in both leagues. One of the finest performances in baseball this season came from a constituent of mine, someone who is as fine a man as he is an athlete. I refer to Jim Rice, the designated hitter for the Boston Red Sox.

Jim Rice excelled in every category of offense this year. His statistics are truly exceptional. To begin with, he won the American League home run championship with 39. He finished third in runs batted in with 114. He finished sixth in batting with an average of .320. He was one of only three American Leaguers to make 200 hits. He was one of a slightly larger group to score over 100 runs. Moreover, he played in all but one of his team's games. He provided the leadership, day in and day out, that helped the Red Sox to fight the talented and wealthy Yankees on even terms right to the end of the season. As a result, he is one of the leading candidates for Most Valuable Player in the American League.

Mr. President, Jim Rice hails from Anderson, S.C. It was there that he first began to develop the skills which have brought him to the summit of the baseball world. Despite the fame and the honor that have come to him, Jim Rice remains a loyal son of South Carolina. He still makes his home in Anderson during the offseason. There he lives with becoming modesty and humility, a responsible citizen and a good friend and neighbor.

The people of Anderson and of my entire State are justly proud of this fine man and his rare accomplishments. On behalf of them and of myself, I offer sincere congratulations and all best wishes for the future.

The Anderson newspaper recently carried an editorial in honor of Jim Rice. I know that we have a number of baseball fans in the Senate, and I thought they might like to see the article. Even those who are not fans will be able to appreciate this testimonial to a native son who has made good, in a far off arena, amid formidable competition. Accordingly I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CONGRATULATIONS JIM

Andersonians are proud of Jim Ed Rice who is the first designated hitter ever to be named to the American League's All-star team.

It is quite an honor to be named to the team. Making it a first as a DH makes the honor even more impressive.

Rice, who learned his elemental baseball skills on the school and American Legion Junior baseball fields in Anderson, has been a credit to his home town and the game all the way. He naturally has spread his area of influence considerably since joining the Boston Red Sox.

Even though he is a star, he has not behaved like one. He has not been spoiled by success. He has not followed the lead of some of the other outstanding players in the majors who are prone to temperamental outbursts and unreasonable demands. He has simply done the job the Red Sox have asked him to do and done it well.

He has shown the warm spot he has in Anderson and its people by building his home here where he plans to spent most of his off season time.

Congratulations Jim. May you have many more successful seasons and continue to reflect credit on yourself and your home town.

## VETERANS' BENEFITS

Mr. MOYNIHAN. Mr. President, I had the privilege Tuesday evening, along with my distinguished senior colleague from New York, to address the Stony Brook Foundation of the State University of New York at Stony Brook. I thought it a good occasion to remark on the most recent developments concerning the GI Bill Improvements Act of 1977, which this body unanimously passed 2 weeks ago today. The attention paid the veterans by the news media, especially the Washington Post, is of long standing and has been commendable. I should like to offer my remarks and the editorials and columns of which I am aware, for the consideration of the Senate, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

We gather here tonight due to a common interest in higher education. And we gather

at a moment when higher education in our State and our region is faced with a serious and damaging setback in Congress, which is now considering changes in the GI bill. It is to this situation which I would like to address some brief remarks.

No educational assistance program in history can begin to match in scope the GI bill, in all its incarnations over three decades. Yet since 1952 the structure of the bill has contributed directly to an increasing imbalance in this country, both geographically and institutionally, in the use by veterans of their benefits under the bill. The structure of the bill since 1952—by allotting a set monthly payment to all veterans enrolled in education, regardless of their differing costs—has thwarted the intent of the bill, which was at its inception and remains that of assisting veterans equally to obtain an education. The facts, however, give a different picture from that original and, as I say, continuing conception of purpose.

Just after the Second World War, in 1948, the proportion of eligible veterans enrolled in 2- and 4-year colleges in New York and in California was almost equal—16 and 17 percent respectively. Most recently, this ratio has altogether changed in California's favor, and today, fewer than a third of eligible veterans in New York are enrolled while more than half are enrolled in California. For an entire generation of young men in New York, these statistics reveal a significant limitation of educational opportunities, with obvious and damaging effects on their futures and on that of our state.

In 1948 the ratio of veterans attending private institutions of higher education to those in public institutions was 50–50. Today it stands at 4–1 in favor of public institutions. These indicators hold true not only for a few states, but across the nation, with the entire northeast and midwest falling far behind the west and south in participation.

Hundreds of thousands of veterans in the northeast and midwest have failed to use their educational benefits. It would be absurd to suggest that these veterans had less desire or capability to further their educations than do their counterparts in the south and west. The fact is that the GI bill payments go a good deal further in some places than in others. The single veteran here at Stony Brook needs approximately $3,400 per school year to meet educational and living expenses; his counterpart at California State University in San Diego needs $2,650. Both receive from the VA $2,628 per term if they are full-time students. We could look further, at the married veterans at Stony Brook and San Diego, who need respectively $7,100 and $5,400 per term and who receive the same $3,123. Is it any wonder, then, that only 600 of Stony Brook's more than 16,000 students are veterans, while there are 3,000 veterans among the 30,000 students at San Diego? Do these figures attest to an equal opportunity to seek an education? It is all quite straightforward: Costs vary, and so should assistance.

Less than two weeks ago, Senator Javits and I led a fight on the floor of the Senate to bring the structure of the GI bill more in line with its purpose. We did not obtain all we sought, but we were quite pleased and felt our efforts to have been rewarded when the Senate, by the overwhelming vote of 91 to 0, passed the GI Bill Improvements Act of 1977.

The act provided, for the first time since 1952, that veterans may receive assistance beyond their set monthly payments, at rates varying according to their tuitions. We were pleased that the act furthered the principle that the benefit to be equally conferred on veterans is not a monthly check but is the opportunity to an education. We were pleased that the act provided its assistance in meaningful amounts to veterans. And we were delighted that the sense of the senate on these points was unanimous.

You can imagine, then, our dismay upon learning, only yesterday, that there were no plans for a Senate-House conference on the act and that, in fact, the act was being quietly emasculated in private discussions between the staffs of the Senate and House veterans affairs committees. This, to an act directly affecting nearly two million veterans this year, and in the face of a unanimous Senate vote and of support by over 200 House members for a concept similar to that passed by the Senate. You can image, too, our perplexity at the administration's continuing silence on these matters despite President Carter's well-publicized and no doubt sincere commitment to bettering the lot of veterans.

I address this matter tonight because the outcome remains undetermined. To institutions of higher education in the northeast, and to thousands of veterans who live here, this is a matter of first importance. I know that the concern Senator Javits and I have will be shared by this audience, and I urge you to lend us your assistance in ensuring that the GI bill treats veterans equitably. President Carter has spoken of the "special debt of gratitude on the part of the American people to those . . . who served in Vietnam, because they have not been appreciated enough." In my view and in that of Senator Javits, they deserve appreciation and assistance no less because they choose to live in New York and to further their educations in the distinguished institutions, such as Stony Brook, which are found here.

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[From the Washington Post, Jan. 9, 1977]

THOSE WHO SERVED

"In the area of the country where I live, defecting from military service is almost unheard of. Most of the young people in my section of Georgia are quite poor. They didn't know where Sweden was, they didn't know how to get to Canada, they didn't have enough money to hide in college. They preferred to stay at home, but still they went to Vietnam. A substantial disproportion of them were black. They had never been recognized for their service to the country. They had often been despised, characterized as criminals, they were never heroes and I feel a very great appreciation to them. They were extraordinarily heroic, serving their country in great danger even if they didn't have the appreciation of their fellow citizens and even if they felt the war was wrong. It's very difficult for me to equate what they did with what the young people did who left the country. . . .

"But I think it is time to get the Vietnamese war over with. I don't have any desire to punish anyone. I'd just like to tell the young folks who did defect to come back home with no requirement that you be punished or that you serve in some humanitarian capacity or anything. Just come back home, the whole thing's over."

That's how Jimmy Carter explained, in an interview with editors and reporters of this newspaper last March, what he was to describe in a speech to the American Legion in August as "the single hardest decision I have had to make during the campaign"—his decision to grant a blanket pardon to draft evaders in his first week in office as President, and to deal with Vietnam deserters on a case-by-case basis. Performance on this campaign promise is not going to be popular among many Americans. Those who resisted the war and joined the protest against it are not likely to be satisfied unless Mr. Carter does his pardoning in a way that suggests the "defectors" were right and that the war was wrong. And those who engaged in the war or supported it and who care most deeply about its hundreds and thousands of victims—the dead, the wounded, the drug-addicted, the men with bad conduct discharges, the unemployed—are going to resent any suggestion that those who served were wrong.

So it has the look of a no-win proposition for Mr. Carter, when you look at it in the narrow and inflammatory terms of a pardon for "defectors," which is the way most people have been impelled to look at it by the nature of the campaign debate on this issue, by the sharp focus on draft evaders and deserters as the unfinished business of Vietnam, and by Mr. Carter's own emphasis on "the young people who left the country." But it becomes a far more palatable and promising proposition if you approach it in the context of the Vietnam legacy in its totality and of what the new administration can do about those hundreds of thousands of victims of the war who never left the country—or left it to serve the country in Vietnam.

We have no clear indication of how Mr. Carter is looking at it right now. But the deadline for the President-elect's decision is drawing closer. So we would like to draw attention today to that larger problem—to the totality of the wreckage—and to suggest some ways to deal with *that*. And we would take as our text some other things that Jimmy Carter said in his American Legion speech that did not receive quite as much attention as his controversial commitment to a "blanket pardon" for the draft evaders now in exile in Sweden and Canada:

"We must recognize that, in far too many cases, the Vietnam veterans have been a victim of governmental insensitivity and neglect. Large bureaucracies of the federal government have often been incompetent, inefficient, and unresponsive in their fulfillment of responsibilities to veterans. . . . Each month, thousands of veterans are plagued with later delivery of badly needed benefit checks. Hundreds of millions of dollars of benefit payments have been improperly computed. . . . In 1973 and 1974 Congress passed legislation requiring special consideration of veterans in public service jobs, in training programs, for jobs with federal contractors, and for jobs in the federal government. None of these requirements has been fully or effectively carried out. . . . The record of placement in private sector jobs and training is no better. . . . Last month [July 1976] there were still $31,000 Vietnam veterans who had no jobs. . . .

"The Vietnam veterans are our nation's greatest unsung heroes. . . . a lot of them came back with scarred minds or bodies, or with missing limbs. Some didn't come back at all. They suffered under the threat of death, and they still suffer from the indifference of fellow Americans."

We recite these campaign statements by Mr. Carter not to suggest any lack of support for his pledge to pardon the draft evaders and deal with the deserters case by case, but simply to put that pledge in its proper perspective as a part of the unfinished business of Vietnam—but only a very small part, and to our mind, by no means the most important part. To put it in its simplest terms, the Vietnam war was a *generational* calamity. Leaving aside for the moment the private citizens who agonized over it and the taxpayers who paid for it and the next of kin of those who served or resisted, it has been calculated that there was a "Vietnam generation" of draft-age men numbering 26,800,000, and it is probably fair to say that, one way or another, the war touched the lives of most of them. Some of the brightest and best educated took refuge in higher education, or found other grounds for avoiding the draft. Roughly 570,000 were draft offenders. Nearly 9,000 draft offenders were convicted. Three thousand more draft offenders are thought to be still at large. From these two groups, it is estimated that about 5,000 are now expatriates, unable to return to the United States.

On the other side of the ledger, almost 11 million draft-age men served in the military, of whom only about 2 million can be classi-

fied as Vietnam veterans—those who actually served at one time or another in Indochina. Of these, about 52,000 died, 270,000 were wounded, and 70,000 received "bad paper" discharges under other than honorable circumstances. Another 180,000 young Americans who did not go to Vietnam received bad discharges, a handful for failure to report for Vietnam duty (7,000) and the great majority for other offenses. Astonishingly, of the bad discharges awarded to Vietnam veterans, only 24 were awarded for desertion under fire. 2,000 were awarded for those who went absent without leave in the combat zone and the great majority (68,000) were for other offenses.

Now "other offenses" covers a multitude of things, including such "civilian" crimes as assault, homicide, and theft, as well as violations of military codes and regulations. But when you consider that the overwhelming majority of those who got caught up in the draft were poor, undereducated and the least qualified for military service, do you not have to include them, in a certain sense, among the victims of the war? It is estimated that at least one quarter of the 200,000 Vietnam-era veterans who received "undesirable discharges" or bad conduct discharges got into trouble *after* serving honorably in Vietnam. Yet their "bad paper" discharges severely damage their employability and will dog them the rest of their lives. Once you start talking about pardons, the numbers and the number of categories of potential candidates boggles the mind. What, for example, of those war resisters who stayed home to protest and were convicted of non-violent offenses under federal law? The point is simply that the problem only begins with the estimated 6,000-or-so self-exiled draft evaders and deserters in Sweden, Canada or elsewhere.

There are other measurements, equally devastating, and even more difficult to calculate, of the full legacy of Vietnam: the drug-addicted, the psychiatrically disturbed (some of whom committed crimes of one sort or another after the service), the unemployed. The jobless rate in the 20- to 24-year-old category is almost twice as high for Vietnam veterans whose employability has been marred two ways: directly, by drug addiction, psychiatric problems and service-connected physical disability; and indirectly by the popular image of Vietnam veterans as unstable and violence-prone.

President-elect Carter, we think, is on the right track—and never mind the semantical confusion he has created by his misuse of the strict meaning of "pardon" as opposed to "amnesty." He is proposing to deal with draft evasion and desertion (under some circumstances) as offense to be forgotten and in a sense forgiven, without respect to the rightness of the act or the wrongness of the war. This is a welcome first step beyond President Ford's clemency program, which demanded a penalty for those who evaded the draft—which said, in effect, that *they* were wrong and that the war, by implication, was right. But if that is all Mr. Carter intends to do, he will not put Vietnam behind us. For he will be picking up only a small piece of the Vietnam wreckage. The rest of it—the biggest part of it—is also the hardest part. But if Jimmy Carter really wants to be able to proclaim that "the whole thing's over" he is going to have to make good on some of those other promises he made to the American Legion. He is going to have to do something about the wreckage of those who served.

Among those reflecting upon the meaning of Memorial Day, we would assume, are approximately eight million veterans of the Vietnam years. For many of them, it comes as one more painful reminder that this country still lacks a comprehensive program to deal with their needs and entitlements. It cannot have escaped their notice that a nation capable of prolonged discussion and strong emotion on the merits of amnesty for no more than 10,000 young, men who did not serve—by evading the draft—is strangely incapable of dealing equitably with those who served, including two and a half million who actually went to Vietnam and 400,000 who suffered wounds. To examine some of the current attitudes about Vietnam-era veterans is to see graphically why so many of them feel ignored or frustrated. It is also to understand why those who are trying to help them are finding it so difficult.

There is, to begin with, the GI Bill itself. At the moment, many of the most needy veterans are denied meaningful access to educational assistance. The GI Bill was inadvertently structured to provide benefits to veterans with access to low-cost public institutions. The problem is that many states and cities have few, if any, of these institutions. Sen. Alan Cranston, chairman of the Veterans Affairs Committee, has spoken of this unfairness and has pledged to "explore the matter and to come up with a remedy." Unfortunately, the leadership of the House Veterans Committee and, surprisingly, the new administrator of the Veterans Administration, Max Cleland, have not made a similar commitment. Another group with limited access includes some veterans who are married and have children; for them, the GI Bill's allowances are too low to be meaningful. Veterans with less than high-school educations are often left out also. Still another group is the one comprised of veterans who fought during the years 1966 to 1972; they were discharged at a time when benefits in many states were effectively so low that the most needy could not afford to go to school.

A second problem is the lack of attention given to the personal adjustment problems of Vietnam veterans, especially the disabled. Many came home unthanked and unnoticed for their sacrifice. Being forgotten became one of the heaviest emotional burdens, particularly as South Vietnam collapsed and the country's leaders were content, as President Ford urged, to put Vietnam behind us. One of the government's failures is that it hasn't conducted the research to learn how widespread the emotional problems may be. One unofficial VA estimate holds that one out of five new veterans suffers serious and prolonged readjustment problems.

From these examples alone—and there are others—it is clear that, despite the efforts of a few public officials as well as some of the more alert veterans groups, there is no coherent national policy for dealing with the problems of returned service personnel. It is not as though solutions are unknown, or that teachers, counselors and others are unwilling to work individually with the veterans. An article on the opposite page today tells the story of a few people involved in programs that are as worthwhile on the local level as they are deserving of support from higher levels.

In other words, it can be done—it just isn't being done enough.

At the moment, Congress is considering an across-the-board increase in GI benefits. This approach, as a recent report to the National League of Cities and the U.S. Conference of Mayors notes, is far from ideal: It may overcompensate those veterans who already are receiving too much, while others will remain without access to schooling. Rep. Lester Wolff (D-N.Y.), along with 75 cosponsors, has introduced legislation that would accelerate the availability of GI Bill benefits. This bill and another—providing tuition equalization—deserve immediate attention.

Evidence suggests that the veterans have a number of supporters scattered throughout Congress. But it is the responsibility of the President to pull together that support, as well as coordinate the energies of his own administration. In January, the Secretary of Labor, with considerable fanfare, announced a $1.3 billion program to provide more jobs for veterans. Four months later, unemployment among veterans remains high with veterans groups still awaiting signs of effective followup. One issue that has aroused the anxiety of these groups is that the mandatory veterans quotas—ones assuring that the jobs go to veterans rather than others—have been dropped from the administration's bill now on its way through Congress .

The President has spoken movingly of the plight of the Vietnam veterans. But his actions—the efforts to provide a form of amnesty for deserters and veterans with "bad paper" discharges, the hastily assembled jobs program—fall short of the sort of comprehensive, high-priority approach that is needed. Today, as always, we salute those who served and suffered in all wars—and, above all, those who gave their lives. But our urgent concern is with the veterans of the Vietnam years—and with the unfinished business of that war.

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[From the Washington Post, May 30, 1977]

WHO IS CARING FOR THE VIETNAM VETERANS?

(By Colman McCarthy)

Peggy Nolan, an English teacher in the Veterans Upward Bound program at Prince George's Community College, received a surprising phone call the other evening from Bill White, one of the 15 Vietnam veterans in her course. He couldn't get to the next class, White explained, but he wanted to get the assignment so he could keep up. What amazed Mrs. Nolan was that the call came from Tulsa. "I knew Bill liked the course," she said, "but I was touched that it meant so much that he would go to the expense of calling long distance."

The veterans in Mrs. Nolan's class have been studying the basics of English grammar. Some had reading and writing skills well below eighth-grade level. Few had ever been exposed to advanced grammar, much less the delights of literature. But one motivation was common to them: Learning English was a survival skill; if they didn't grasp it now they could expect to remain in the exile that has been the fate of so many Vietnam veterans.

America's mistreatment of its Vietnam-era veterans is a well-known story: The inadequacy of the GI Bill, high unemployment rates, shifting and often stringent VA guidelines, neglected or dropped veterans' programs, job-offer runarounds—these are among the complaints heard by a reporter when he met recently with Mrs. Nolan's class.

But aside from the anguish of grown men who are blessed with street-wise intelligence but who struggle and sweat to learn simple English, another reality came through: In Mrs. Nolan, and the others in the Prince George's Upward Bound program and its supporting English Department, the veterans had finally met people who cared about them. The significance of that should not be dismissed. A few years ago, Rep. Silvio Conte of Massachusetts, one of the Vietnam veterans' more reliable friends in Congress, said that "somebody has got to take these guys by the hand and help them decide what to do. We've got to let them know that somebody cares."

The congressman didn't say where these "somebodies" are to be found. But the lesson from Prince George's is that they do exist.

The Veterans Upward Bound program at Prince George's is one of the few remaining out of the 60 in operation across the country five years ago. These programs are said to attract zealous teachers like Mrs. Nolan, who confesses that "I had the deepest sense of fulfillment I've ever had in any school, because of the veterans' needs and motivations." Another effort is the Veterans Cost of Instruction Program (VCIP), HEW's pro-

gram that provides 1,200 colleges with funds to counsel and help veterans, particularly the poor, jobless and uneducated. In classrooms and counseling offices that these programs have set up, the invaluable one-to-one work is done.

Although VCIP and Upward Bound are small programs that serve only a portion of the eight million Vietnam-era veterans, their success serves notice that effective ways of reaching and educating the neediest veterans are known. Instead of expanding a program like VCIP, however, it appears that the results of federal decisions subject local directors and staff workers to one frustration after another.

At Prince George's Community College, Dave Borchard, director of veterans' affairs, tells of having to cut two people from his five-member staff last year. VCIP funds were reduced from $72,000 to $52,000. Borchard says that "decisions at high levels are made haphazardly without an effort at really finding out what is happening on campus. We kept hearing from lower- and middle-level officials in HEW that this was a good program. But this information never made its way to the top."

The communications problem has always been present. When $25 million was appropriated by Congress in 1972, the National Association of Concerned Veterans had to sue the Nixon administration to get the impounded money spent. During the Nixon years, no funding requests were made to Congress. Owing to the pushing of a few members of Congress, the program received its money. Because it was backed by Congress but not the administration, VCIP was a stepchild at HEW. In the field among the program's administrators, worries about funding became a major distriction.

At the moment, the Carter administration has included VCIP in its budget—for $23.5 million. The irony is that at the same moment the program is receiving some mild support at HEW, a new threat appears: Under the terms of the legislation, a school must maintain its veterans enrollment at its qualifying levels or face at the least a reduction in funds and possible termination. Some dropoffs are occurring as veterans graduate. The National Association of Veterans Program Administrators is now trying to amend the Higher Education Act, so that it takes into account the large numbers of veterans still needing the program, despite the decline. This is the new fight.

One of those planning to wage it is Robert Martinez, the VCIP director at HEW. In a recent issue of the Chronicle of Higher Education, he said that "the commitment of the colleges to the disadvantaged students, including veterans, is only as deep as the dollars to assist them. Without programs like VCIP, the ones who are most in need of help will be cut off and left to fend for themselves. I think it's a shabby way to treat these guys. Talk to veterans now and you'll find that they are tired, frustrated, apathetic. No one is listening to them."

The larger entity of which VCIP and Upward Bound are the smaller parts is the GI Bill itself. In 1966, with Vietnam heating up, an educational-benefits bill was passed by Congress, but the veto threats of President Johnson held its payments to $100 a month. That was less than the Korean-war level of $110 a month. That low base has penalized veterans ever since. Any increase from that, in percentage terms, looked large, although for many—particular the poor and the schools serving them—the money has been meager compared to the generous levels of World War II.

Another complication was the Johnson administration's policy of recruiting an army from mostly the poor and lower middle class. This meant that many of those who served in Vietnam went with the idea that after the war "a grateful nation" would at least come across with the promised educational benefits that otherwise would have been out of reach.

On returning, though, these veterans found themselves victimized by the traditional powerlessness of the poor and lower middle class. In a recent report on the GI Bill to the National League of Cities and the U.S. Conference of Mayors, detailed examination was made of veterans educational programs in Nashville. The report concludes:

"From this overview of a part of Tennesee, it is possible to see a reflection of the national picture. The GI Bill—and the Vietnam-era veterans it is intended to serve—has been burdened by a string of problems which seems to lengthen as the war recedes from public consciousness. The problems are varied, complex and at times contradictory. Costs have risen sharply to the highest level in the history of the Bill. Over-payments have reached into the hundreds of millions of dollars. The VA has been first to lax and then too rigid in the administration of the program. Some colleges and universities have been inhospitable to veterans, others indifferent, still others too aggressively exploitative. Some veterans have abused the Bill. . . . Presidents Johnson, Nixon and Ford, under whose administrations the war was fought, showed something less than enthusiasm for extending full educational benefits to all those who fought it for them."

The discouraging situation outlined by the report was articulated in a recent letter from the veterans coordinator at Highline Community College, Midway, Washington. Steve White wrote to his fellow administrators of the VCIP program that he was quitting because he could stomach no more frustration from above. "When I began we were all involved in helping other veterans accomplish some educational goals in their lives. We bent rules, broke through red tape, and anything else we could to assist our school's veteran population. Each of us in our own way did one hell of a job. For many veterans it was the first time anyone helped them in an individual way since that historic induction day took place in each of our lives. The first time that anyone really cared about them, and gave a damn! Without a doubt, my first year or two saw many battles against VA bureaucracy won by each of us. . . . [But now] years of work and efforts on the part of VCIP coordinators are being destroyed by this state's institutions knuckling under the VA threats."

A few months ago, veterans' groups became guardedly optimistic when a new administration took over. President Carter's appointment to the VA of Max Cleland, a triple-amputee Vietnam veteran, was welcomed. "I think my appointment," Cleland said, is an indication that [the President] is extremely sensitive to the problems of young veterans."

If that sensitivity is to mean anything, the first test is whether it can be expanded not only to Cleland's own agency, but also to HEW—which runs VCIP and Upward Bound—and the Labor Department. Last January, the latter trumpeted a new jobs program for Vietnam veterans, but four months later several veterans' groups complained bitterly that neither Labor nor Congress was following through. Meanwhile, in April, 474,000 veterans in the 20–34 age group were unemployed, a rise of 32,000 from March.

At the moment, the government's veteran policy is suffering from formlessness. Bits and pieces of the whole—programs like VCIP and Upward Bound—have proven their worth. But rather than being supported by those in power, they are allowed to remain fragmented. Thus, as one part of the government goes after unemployment, another seeks to rouse the VA. And education remains someone else's concern. At the least, the veterans deserve the kind of whole care and attention from the powerful that they are receiving from the Peggy Nolans, Dave Borchards and Steve Whites in the classrooms and counseling offices. If there is a light at the end of the tunnel, it should be shined by those in power who may be out of the dark themselves but who haven't brought many Vietnam veterans with them.

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[From the Washington Post June 28, 1977]

VETERANS OF A LOST WAR

(By Colman McCarthy)

At hearings last Wednesday before the Senate subcommittee on veterans affairs, John P. Wilson, a psychologist from Cleveland State University, offered some staggering findings on how life is going for a group of 346 veterans from the Cleveland area. Wilson's study, funded by the Disabled American Veterans Association, sought to discover the personal impact of the war among a sampling a combat and non-combat veterans who were white and black and from all economic groups.

Wilson's study, called the "Forgotten Warrior Research Project on Vietnam Veterans," supplies some new information, however unsettling, to those in the old-line veterans groups, and their boosters in Congress, who believe that Vietnam was no different from earlier wars. When Wilson sought modest grant money—$20,000—for his research from the American Legion and the Veterans of Foreign Wars, he had no success.

He told Cleveland Magazine: "It was obvious that the subject was one that did not appeal to the interest of these groups. I think some may have guessed what we would come up with. . . . More than anything else this study will show the American public what happened in Vietnam. They have no idea of the human toll it took. By facing the reality of what the war did to the men who served there we can learn about society itself. My suspicion, at this time, is that we as a society feel ashamed, embarrassed and guilty about the war. Perhaps the Vietnam veteran is the scapegoat who gets blamed for our collective guilt. All we want to do is forget, and in the process we ignore everything associated with the conflict, most of all the men who fought it."

Reporting that the typical soldier in Vietnam was a late adolescent or young adult still in "the development period of identity formation," Wilson shows how that formation has been progressing since the war. Among black combat veterans, unemployment is 48 per cent; among whites, 39 per cent. Thirty one per cent of black, and 22 per cent of white, combat veterans are divorced. Forty one per cent of both groups have alcohol problems. Forty five per cent report poor family relationships. Fifty nine per cent of the blacks, and 67 per cent of the whites, have drug problems.

With these excesses of turmoil and tragedy in veterans' postwar lives, the answers to some of the "attitude" questions are not surprising. When asked, "If there were another Vietnam tomorrow, would you serve in the military?" 95 per cent of the combat veterans stated "absolutely not." More than 90 per cent do not trust the government. Wilson reports that "most of the men currently believe that the war was fought for economic purposes and that they were exploited by political leaders." If the men have bitter feelings about being duped by those who sent them into Vietnam, they also suffer from what Wilson calls "negative self-esteem." Thirty seven per cent of the black combat veterans, and 28 per cent of the whites, have negative attitudes about themselves.

The statistics tell, still again, that the burdens of readjustment have fallen more harshly on the black veterans. Wilson concludes that "for the lucky veteran, typically a white middle-class person with some college education and family support to help pay for higher education, the process of identity integration and finding a niche in society was not as difficult as it was for the poor black veteran without these benefits or

opportunities. For the black veteran, life since Vietnam has been one hassle after another. A vicious cycle of Catch 22s has been the rule."

As an example Wilson cited the GI Bill. It is, he said, "inadequate to subsist on and simultaneously raise a family." Without additional job training for education, he said, the black veteran finds only menial jobs available—or none at all. Without education and good employment they are refused commercial credit to purchase houses. In turn, "lack of employment and a decent standard of living generate psychological stress that then spins off into interpersonal conflict, drug use and crime."

Readjustment from the Vietnam War thus leads to either battles against society or, if those can be contained, personal battles against the self. Earlier studies on readjustment problems suggest that the inner effects of war are prolonged and surface randomly. Vietnam veterans constitute 9 per cent of the Veterans Administration hospital population, but 20 per cent of the suicides in those hospitals. Another survey found that Vietnam veterans "have a higher rate of single-car, single-passenger fatalities than any other group in the U.S."

Despite the studies and statistics, it appears that many in Congress and the country don't want to be told the Vietnam experience was something special, because that obliges them to reflect on *why* it was special. And the answer to that, of course, is not just that it was the nation's longest, most expensive and second largest war, but also that, after all that effort, the war was ignominiously lost. With the exception of eight Vietnam-era veterans, all war veterans in Congress are from World War II or the Korean War. Because their perceptions were shaped by their own readjustment periods—they returned as heroes to a grateful nation ready to reward them—many members see little need for passing legislation to provide more and broader services to Vietnam veterans and to be large-minded about their eligibility. Rep. C. V. (Sonny) Montgomery (D-Miss.) said, "I do not see the difference between the Vietnam war, the Korean war or World War II. They are all wars. The persons fighting the wars cannot tell any difference." Such an attitude, grounded either in ignorance or callousness, can only further alienate and depress the Vietnam veterans.

But it can't silence them. Ralph C. Thomas III, a Vietnam veteran and director of the discharge review division of the Harvard Law School Committee on Military Justice, told the House Committee on Veterans Affairs yesterday that he and his comrades had a stark awareness that this war was different.

During the Vietnam years, Thomas said, "the war's morality and even legality were questioned daily [and] debated on the floor of Congress as well as editorialized in the news media. . . . Such a climate couldn't endure without affecting the morale of the servicemen both within and without the country of Vietnam. We began questioning our own morals and principles and I can assure you that our political discussions were not less heated in the hills of Vietnam than yours were in the halls of Congress.

I observed arguments concerning the validity of the Vietnam war that brought GI's to the brink of fisticuffs with one another. Such disagreements often led to a serviceman's demise. An unpopular political opinion to the wrong superior officer was usually the beginning of the wheels' being set in motion for a less than honorable discharge—regardless of the individual's competency or job performance. It is probably safe to say that during the Vietnam era more bad discharges were sparked by political considerations than during any other American war.

In the Winter 1975 issue of the Journal of Contemporary Psychotherapy, Victor DeFazio wrote that "the psychological climate of the war, the public's response to [veterans'] homecoming, the fact that most entered the armed forces during late adolescence, their moral doubt and the survival experience seem to account for [the Vietnam veterans'] unique difficulties and attitudes." Still to be explored are the psychological problems created by the newest obstacle to healthy and quick readjustment: politicians like Montgomery who are now as indifferent to the war's messy aftermath as once they were passionate for its escalation.

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[From the Washington Post, July 19, 1977]

VIETNAM VETERANS AND THE GI BILL

The Congress is discovering, and rightly so, that the unfinished business having to do with equity and reasonable opportunity for the veterans of the Vietnam era cannot be wished away. The other day we talked about the efforts of sensitive and responsible members of Congress to rescue the administration's program for speedier review of less-than-honorable discharges. Today, as the Senate Veterans Affairs Committee begins to debate amendments to improve the GI Bill, we would like to take note of another effort by those in Congress who recognize the importance of working for fair and humane solutions to the particular problems confronting the veterans of Vietnam as a consequence of the particular nature of that conflict.

Sens. Alan Cranston (D-Calif.), John Durkin (D-N.H.), Jacob Javits (R-N.Y.) and Hubert Humphrey (D-Minn.) are aware of the flaws in the current provisions of the GI Bill. But doing repair work on this legislation is not one of the appealing pursuits in Congress. For one thing, the GI Bill is perhaps the best known of the veterans' programs, which means that its failures receive the most publicity. For another, when Vietnam veterans are involved in the failures, a kind of general, anti-Vietnam prejudice sets in. A few years ago, when abuses involving Vietnam veterans began to be reported—overpayments, payments to those who didn't attend classes, creation of training courses that had no substance—the critics seemed not to remember that similar abuses occurred after World War II and Korea; only the glowing successes of those programs were well remembered. That almost nobody seemed to remember any *successes* of the GI Bill for Vietnam veterans may have something to do with a general inclination on the part of politicians as well as the public not to want to be be reminded about anything having to do with the first war America lost.

In any case, Sens. Cranston and Durkin have set out, first of all, to correct some of the abuses that have come to light. This is expected to be handled without great difficulty by balancing the needs of the schools with a prudent use of federal funds. Other problems will not be resolved so easily. For example, the GI Bill as it is now operating favors veterans in states that have educational systems providing low cost schools—unlike the World War II program, which gave all veterans equal amounts to live on. An example of this, as Stuart Feldman has pointed out in a report to the National League of Cities and the U.S. Conference of Mayors, is that "a veteran at Temple University, the public college in Philadelphia, would have to pay $1,498 for tuition fees and books. A veteran attending San Francisco State would have only to pay $200 tuition. When coupled with expenditures for average book and supply costs, this means that the California vet, who may have served in the same company with the Philadelphia vet, has to spend only 15.1 per cent of his yearly GI Bill benefits for education costs—while the Philadelphia vet has to spend 57 per cent of his benefits. The California vet has $122 more per month to apply to his living expenses."

Sen. Cranston would take a step toward correcting these inequities by allowing veterans whose tuition is more than $1,000 a year to use their benefits at a faster rate to cover the differences. This is the "acceleration provision," which was part of the World War II GI Bill. It has has the support of the VFW and American Legion. An alternative, which also has merit and which passed the Senate in 1974, is being offered by Sens. Javits and Humphrey. It would pay 80 per cent of a veteran's tuition between $400 and $1,400. The Javits-Humphrey proposal would help veterans who are now locked out of high cost schools that may be the only ones in their area. A third alternative, favored by the Veterans Administration, is to provide a five per cent increase in educational benefits. But this does little to affect the geographical inequities.

Another proposal, offered by Sens. Cranston and Durkin, would allow veterans whose benefits have run out to pick them up again so they can complete their training or schooling. This would extend the delimiting period that cut off benefits to veterans whose time has or will run out 10 years after eligibility began.

Although the GI Bill legislation is in only the markup period in the Senate, it is important that a strong bill emerge now. In the past, the leadership of the House Veterans Committee has resisted such proposals as the tuition-equalization plan, accelerated payments and delimiting-date removal. The President has an obvious role to play in the debate. In his campaign, he spoke out in behalf of Vietnam veterans. He now has the opportunity to involve his administration in ensuring that the money that it has already committed goes to those legislative approaches that promise to serve veterans with the greatest need.

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[From the Washington Post, Sept. 15, 1977]

RENEWING THE GI BILL DEBATE

As the debate on the GI Bill continues in Congress, the overriding issue still needing to be resolved is the disparity in benefits. As Rep. Albert Quie (R-Minn.) has explained, "the present veterans benefit system has evolved to the point where a large number of GI Bill recipients receive more than their total educational benefits and other thousands of veterans have to go into debt to get comparable education." Despite positive moves by the Senate Veterans Committee, however, neither the House Veterans Committee nor the Carter administration seems prepared to act decisively to offer relief to the hundreds of thousands of veterans involved.

In previous testimony, the administration proposed an across-the-board increase in benefits. But this does little more than maintain the current inequities. Veterans in Texas, for example, whose number slightly exceeds those in Pennsylvania, used $318 million in GI benefits in fiscal 1976, while the Pennsylvanians used only $156 million. The lack of fairness is obvious. But these payments represent more than money; they represent the educational opportunities that can change veterans' lives.

Other approaches recently offered in the House and Senate strike us as better solutions. One would assist veterans by paying 80 per cent of their tuition costs between $400 and approximately $1,600. This measure seeks to ensure that veterans have more or less equal amounts of money to live on and that all can afford at least public education in their region. A second approach, already in the Senate bill, would allow veterans to use their benefits at a faster rate to cover higher costs. Both approaches were taken in legislation following World War II.

House hearings today offer President Carter an opportunity to stand with Vietnam-era veterans whose chances for equitable benefits are fast running out. As an Annapolis graduate who knows the value of a federally sponsored education, President Carter can

align his administration with policies that realistically aid veterans where most needed. It has been argued that veterans who choose to attend high-cost schools should not expect more GI Bill assistance. But what of those many veterans from areas that offer no choice but high-cost colleges or technical schools?

Until lately, Reps. Ray Roberts (D-Tex.) and Olin Teague (D-Tex.) have dominated the GI Bill debate in the House. Others are now coming forward who are more in touch with the actual needs of veterans hoping to educate themselves. It remains for the rest of the House, especially the leadership, to take the broader approach.

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[From the Washington Post, Sept. 27, 1977]

VIETNAM VETS: WHO LISTENS TO THEM IN WASHINGTON?

(By Colman McCarthy)

In earlier trips this year to Washington, Jim Bombard brought along some fellow Vietnam veterans to help tell his story. He is the director of veterans' affairs at Queensborough Community College, Bayside, N.Y. Last spring, he and three of his students had a meeting with an official in the White House's public liaison office. In June, Bombard came down from Queens with one student to testify at hearings before the Senate. Both occasions were used to make the case that veterans are being victimized by unfair provisions in the GI Bill, that unemployment among them is severe, and that they are demoralized and embittered. Bombard and his veterans pleaded with Washington—the Carter administraiton and Congress—to wake up to the injustices and suffering being endured by large numbers of the nine million Vietnam-era veterans.

On his most recent visit to the Capitol—Sept. 15, to testify before the House subcommittee on education and training—Bombard came alone. He said that he couldn't go through the heartless routine again: bringing veterans to Washington, seeing their hopes rise as they made the rounds but then going home to seethe at the inaction that inevitably followed. Vietnam veterans, Bombard says, are worn out and talked out. They are frustrated by what they see as a lack of response to their problems from the Carter administration and by only a few in Congress sticking with them.

Veterans need no search parties to uncover the indifference. At the subcommittee's hearings on two bills to increase the GI Bill, fewer than half of its 11 members were on hand; weeks earlier, when the subcommittee discussed denying benefits to dishonorably discharged veterans, nearly everyone came. The full House also had its chance to reveal its priorities: On Sept. 12, when two pieces of veterans legislation came to the floor for debate, fewer than 30 members appeared. As for the White House, Bombard left behind a detailed memo on veterans' problems. An official in the liaison office promised a substantive reply, but all that ever came was a brief note saving the material was being passed along. And that was that.

The hearings on Sept. 15 involved two proposals to broaden the GI Bill. Most of the witnesses—from a university president to a veteran in a wheelchair—found it shameful that all the Carter administration and the leadership of the committee could offer was an across-the-board increase that would continue the inequities of overpaying veterans in some states and underpaying them in others. Instead, the witnesses argued for proposals that would create fairness by taking into account the varying costs of tuition. One situation to be corrected was described by John R. Silber, president of Boston University: "The higher the tuition price in a state or region, the lower the use by eligible veterans." Rep. Albert Quie (R-Minn.) said that "the current program seems to be built on the notion that an equal amount of dollars to all veterans is the same as equal education opportunity. . . . I disagree. That is almost like saying that the average shoe size for all military personnel is size 9½ and therefore everyone will get size 9½."

Silber and Quie addressed their thoughts to subcommittee chairman Olin Teague (D-Tex.), the House's most decorated war veteran. His colleagues call him "Tiger," in honor of his past war valor, which is regularly praised by witnesses appearing before him. Teague is a favorite of veterans' organizations whose members go back to World War II and Korea. He socializes with them and attends their conventions. They, in turn, back Teague's legislative proposals.

From Vietnam-veteran groups, however, Teague receives the weakest of salutes, if any at all. He is seen as being so out of touch as not to understand even the obvious; that Vietnam was a different war that led to different readjustment problems in a different America. Teague is resented as being one of those who supported the war in Vietnam but who now refuses to support those who fought or were shattered by it. Recently, he was able to bring his legislation (the across-the-board increase approach) to the floor under a suspension of the rules. That meant no amendments and limited debate. The bill passed. But then, with his own plan home free, Teague held hearings three days later on the two bills that he opposed. Because the House had already passed legislation, the hearings had all the urgency of a parade rest.

As if that weren't enough to people like Jim Bombard—who dismisses an across-the-board increase as irrelevant to the lives of the veterans he sees every day—Teague inflicted still another wound. Several times during the hearings, he asked why he seldom heard from individual veterans about their views on legislation. For Teague, the silence suggested that all was well: No letters, no problems.

Following the hearings, several veterans spoke with a reporter to express discouragement about Teague's thinking. One said that veterans are so cynical about the government, after being burned so often, that writing a letter is an act of hope far beyond them. Another said that Teague was blaming the vets for their problems, as if to say that since they weren't lobbying and exerting pressure, why should anyone else get excited? A third said that Teague has a case of vanity gone wild: Unless his subjects beg him for relief, he ignores them. But the veterans are long past begging. It has gained little, so why continue?

Any gains made now, at least politically, will have to come from the President, the Democratic leadership and all those in Congress who actually benefited from the GI Bill following World War II or Korea. The issue is not generosity to the veterans—though a case can be easily argued on that ground—but fairness. Congress may not want to look over its shoulder at the senselessness that was the lost war in Vietnam, much less at its own enthusiasm for the war as it got going. But it does have to confront the young men who survived those years between 1961 and 1975. For many veterans, a chance at college or training school is still playing a long shot that an education can make a difference in resuming normal living. But to be given no chance at all—because one lives in the "wrong" state where education is costly—is to aggravate the pain, that for many veterans, began in Vietnam.

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[From the Washington Post, Oct., 17, 1977]

EQUALIZING VETERANS EDUCATION

The disparity in education benefits to veterans continues to hamper, and even suppress in many cases, the educational goals of ex-servicemen. A recent study by a congressional coalition of Northeast and Midwest members found that, since 1968, an equal number of veterans in the South and West have received nearly $12 billion in benefits, against $8 billion for veterans in the Northeast and Midwest. The difference is in the lower tuition costs in the Sunbelt, where more low-cost public education is available; many eligible veterans simply can't afford the higher tuitions in the Northeast and Midwest, even with the GI Bill's help. Those who drafted the current GI Bill may not have wished to put veterans in some parts of the country at a disadvantage, but that is much the way it has worked out.

The question is what to do about it. One approach, advanced by the Veterans Administration, is an across-the-board increase in education benefits. Legislation passed by the Senate Veterans Affairs Committee offers a 6.6 percent increase. As generous as this may appear, it serves to continue the inequities that make it easier for veterans in one area of the country to get an education than it is for veterans in other areas.

A second approach, advanced by Sen. Alan Cranston (D-Calif.) and also contained in the committee's bill, would allow veterans whose tuitions exceed $1,000 to use their 45 months worth of benefits at a faster rate. That makes it easier to pay high tuitions but it also means that the money runs out sooner. Although this approach is better than the straight 6.6 percent across-the-board increase, it still leaves a number of problems unsolved. In helping veterans whose tuition goes beyond $1,000, the Cranston approach doesn't eliminate the disadvantage of veterans in colleges in Michigan, Ohio, New York or other Midwestern or Northeastern states. They still have almost $1,000 less to live on than their California counterparts, because the latter have little tuition to pay.

To remedy this, Sens. Jacob Javits (R-N.Y.) and Daniel P. Moynihan (D-N.Y.) are offering an amendment that would reduce the 6.6 percent increase to four percent and apply the savings of $200 million (according to estimates by the Congressional Budget Office)- toward easing the tuition burden of veterans in colleges and technical schools in many more states. This strikes us as addressing the issue from a broader perspective—which is to say that more veterans are likely to be served. It also promises to be a better use of federal funds because it focuses the available money on those most needing it.

A second possible outlet for money saved by reducing the across-the-board increase is an extension of time during which veterans can take advantage of their benefits. From 1966 to 1972, benefits were much too low to be of much use by many veterans who served in Vietnam. Extending the eligibility period would allow these veterans to avail themselves of an educational opportunity that, for all practical purposes, was closed to them.

Either Sen. Cranston's approach or the Javits-Moynihan plan would assuredly be more positive than the across-the-board increase adopted by the House. With a conference committee struggle likely to occur, the Carter administration has an opportunity to move forcefully from its narrow position to one that will distribute whatever funds are available to more veterans—more equitably.

The time for the administration to move is now, while the bill is still before the Senate. And the argument for doing so is all the stronger in the light of the President's recent refusal to veto a bill that severely weakens his program to help veterans, principally those of the Vietnam war, to "upgrade" other-than-honorable discharges and this restore their entitlements to GI benefits, and improve their chances of getting jobs. The principal beneficiaries of the increased education benefits, its should be emphasized, would also be veterans of Vietnam. We are talking, in other words, about still another

part of the unfinished business of the Vietnam war.

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[From the Washington Post, Oct. 24, 1977]

THE CONTINUING NEGLECT OF OUR NEWEST VETERANS

(By Colman McCarthy)

As the government pauses today to observe Veterans Day, ten months have passed since the Carter administration committed itself to stand with the newest and worst-treated veterans—Vietnam's. Enough has happened for a few patterns to be discerned and a few judgments to be made. Compared with the policy of indifference that the Nixon and Ford administrations inflicted on what Jimmy Carter called "our unsung heroes," Vietnam veterans may be better treated now. But not much better.

No question exists that last January the President understood the anguish that many of the nation's 9 million Vietnam-era veterans were enduring. He had criticized the "incompetent, inefficient and unresponsive" federal agencies that dealt with them. His son Jack left college to serve in Vietnam; upon return, Carter said, "he and the uniform he wore were all too often greeted with scorn and derison." Max Cleland, a triple amputee Vietnam vet, was appointed to head the Veterans Administration. One of Carter's first presidential decisions, both substantive and symbolic, was to direct the Labor Department to launch an ambitious program to "help eradicate this blight on the nation's conscience." Another program sought to upgrade the status of vets with other than honorable discharges and open the way for them to get benefits. As for the GI Bill, both the Vice President and the new director of the VA were known to support restructuring the program in a way that would end the inequities of overpaying some veterans while underpaying others.

For all of the zeal and purpose, little evidence exists to suggest that special exertions have been made to fulfill the early promises. For example:

The Labor Department's job program, announced with a flourish, has had little effect. According to the Bureau of Labor Statistics, Vietnam veterans are actually *worse* off nine months after the program began. At the end of this year's first quarter, the unemployment rate in the group ages 20 through 34 was 7.1 per cent; at third quarter's end, it was 7.8 per cent. The percentage of unemployed vets in the 20–24 age group in the first quarter was 16.5; by third quarter it had risen to 17.9. As the picture darkened for Vietnam veterans it brightened for workers as a whole: Unemployment declined from 7.3 per cent in January to 6.9 per cent in September.

In January Labor Secretary Ray Marshall promised that "the President will also give early consideration to the appointment of a Deputy Assistant Secretary of Labor for Veterans Affairs." Months passed before an appointee, Roland Mora, was named, and only in September was he sworn in. A former Carter advance man and organizer for Cesar Chavez, Mora had no experience with problems of veterans' unemployment.

When the President's discharge-review program aroused the wrath of a few congressmen, the White House did little either to explain its intentions or to lobby for its views. When the Secretary of the Army, Clifford Alexander, testified before a House committee that included two of Congress's more powerful overseers of veterans matters, he gave only a tepid defense of the Carter program. Only the weakest of challenges was made to Rep. G. V. Montgomery's (D-Miss.) unfounded and vindictive claim that Vietnam was no different from America's other wars. Shortly after, when Rep. John Murtha (D-Pa.), in a passionate floor speech, spelled out the differences and why they had led to unique postwar problems, the administration had a new opportunity to advance its program. But it let the moment pass. Noting the timidity, Congress passed its own bill. Rather than veto it, as many in the administration wished—because the bill opposed the spirit of "forgiveness ahd compassion" Carter spoke of when he began his own program—the President signed the bill. This lame ending was in keeping with the results of the President's weakly run program: In six months, only 16,000 of the eligible 161,000 vets received the upgrading they could have had.

Many of those in Congress and among veterans' groups seeking to correct the inequities of the GI Bill believed the Carter administration would lead the way. In 1974, as a senator, Walter Mondale said that "with respect to educational opportunities, the Vietnam veteran is a prisoner of peace." Mondale forcefully backed legislation that would have ended the disparity in tuition payments that keeps many veterans in Midwest and Northeast states from attending college or training school. Another supporter of the tuition plan was Max Cleland, now of the VA. He was the author of such a bill in the Georgia legislature and testified last March: "I have in the past and I would personally favor some form of tuition assistance now."

But when tuition-equalization bills were introduced in Congress this year, the administration opposed them. It aligned itself with Texas Democratic Reps. Olin Teague and Ray Roberts, who advanced an across-the-board increase that kept the inequities intact. In Senate debate last Wednesday, when Sens. Jacob Javits (R-N.Y.) and Daniel Moynihan (D-N.Y.) proposed giving more tuition assistance to veterans, the White House offered no support.

One possible explanation for the disarray and failure is that the White House has no one working full time on veterans policy. The person responsible for veterans issues—a member of Stewart Eizenstat's staff—also deals with welfare, Social Security and other matters that usually take precedence. In ten months, only one meeting with the President and Vietnam veterans' groups has taken place. Although it can be debated whether a full-time veterans person in the White House would make a difference, the means to avoid the current formlessness would surely be present. It is less a matter of policy than advocacy. In Congress, many of those who supported the discharge-review program or the tuition plan found themselves stranded when the White House chose not to come forward.

The White House's failure to advocate veterans causes is part of the pattern seen in other backoffs and turnabouts, from nuclear policy to energy. One congressman, speaking of veterans issues as well as others, noted that "the President isn't willing to come up here and use his power to struggle for what he wants. A lot of us who are willing to support him aren't really sure what he wants. If he isn't sure, how can his friends be?"

Other friends thrown into doubt, as well as disillusionment, include some of the veterans' groups that only a few months ago had high hopes. Norman Hartnett of the Disabled American Veterans, says that "this administration is definitely not pro-veteran. I just can't believe it. I don't know why it's happening." Tom Wincek of the National Association of Veterans Programs Administrators says that "the priorities announced by the President have not filtered down to the local level. The substance of programs such as an adequate GI Bill [and] employment opportunities has thus far proved to be an exercise in executive-branch rhetoric."

Today when the President goes to Arlington Cemetery for a wreath-laying ceremony, the traditional words of gratitude to veterans will be spoken. But for many of those of the Vietnam era, the marking of this day is little more than another reminder of their joblessness, lack of access to schooling or benefits, or inadequate health care. Rather than standing tall with survivors from other wars, the Vietnam veterans may share the feelings expressed by a Cleveland vet to a congressional committee in 1973: "Most people treated me like a psycho, a probable drug addict or just a dummy for fighting in a dumb war. It got so that I hid the fact that I was a veteran."

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[From the Washington Post, Nov. 2, 1977]

A FULL DEBATE FOR THE GI BILL

Representatives Margaret Heckler (R-Mass.), Lester Wolff (D–N.Y.) and Robert Cornell (D-Wis.) are trying to alert the members of the House Veterans Affairs Committee that the committee's leadership is about to take into its own hands what rightly belongs in the hands of the full committee and the whole Congress. The issues is whether pending legislation to correct the GI Bill should be debated by a Senate-House conference committee, in view of the public and those veterans whose lives will be affected by the outcome of the debate, or whether it should be worked out at the staff level in informal discussions. Mrs. Heckler and at least 13 other committee members are asking—correctly, in our view—that Chairman Ray Roberts (D–Tex.) convene a special meeting of the full committee to discuss the reasons for requesting a conference with the Senate. A vote would occur in such a meeting.

The Senate has passed a bill with a number of useful proposals. These include an accelerated payment plan by which a veteran could use his benefits at a faster rate to meet high tuition costs for college and technical training. It extends benefits for two additional years to veterans whose eligibility began about a decade ago when payments were actually lower than World War II benefits. Thanks to an amendment by Sen. Barry Goldwater (R–Ariz.), it would also end the long-standing discrimination against some 800 members of the World War II WASPs (Womens Airforce Service Pilots) by making them eligible for veterans' benefits. The fear expressed by many observers is that Chairman Roberts and Rep. Olin Teague (D–Tex.) (the latter is the bill's floor manager) may attempt today to bring legislation to the House floor on the consent calendar. This means that not only has the House committee not participated but also there will be limited debate and no amendments on the floor.

This isn't the first time that the Roberts-Teague tandem has used this legislative maneuver to impose upon the House its particular perception of the needs of America's veterans. In September the pair engineered the passage of a bill that called for an expensive and wasteful cost-of-living GI Bill increase. Mr. Teague might have grounds for his no-debate approach if all along he had shown a full understanding of the complex problems faced by Vietnam veterans.

He persisted in arguing, for example, to the full House that the GI Bill "has always treated veterans on an equal basis." In fact, today's GI Bill overpays some veterans and puts others at an unfair disadvantage. Last week, Mr. Teague said that "under our present program, a veteran can go to virtually any state school and have money left over." According to figures from a survey made by the College Entrance Board, the high costs of many state colleges would leave veterans with significant deficits if they relied solely on their GI Bill.

Mr. Teague's thinking has alarmed many in the Congress; Mrs. Heckler and 13 others on the committee have asked for a conference meeting. One more supporter is needed for a majority. Because the legislation involves the expenditure of close to $7 billion in the next several years, and because the futures

of hundreds of thousands of Vietnam veterans are involved, we think an open and full discussion of this measure is called for.

## INACCURACIES IN ARTICLE ON CRUISE MISSILE VULNERABILITY

Mr. GOLDWATER. Mr. President, on the 29th of October there appeared in the Washington Post a column written by Mr. Evans and Mr. Novak which made some rather strong allegations against our cruise missile. Knowing that this article was filled with inaccuracies I asked the proper people in the Pentagon to put together a point paper for me which would answer the statements. I ask unanimous consent that the point paper on the article of Saturday, the 29th of October, be printed in the RECORD together with the breakdown of the various statements.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POINT PAPER ON EVANS-NOVAK ARTICLE OF SATURDAY, 29 OCTOBER, ON CRUISE MISSILE VULNERABILITY

A Summer Study which addressed the capability of the cruise missile to penetrate future Soviet surface-to-air missile (SAMs) systems was sponsored by the Director of Defense Research and Engineering. However, the article is probably not referring to this study which had no connection to the planned cruise missile test program.

The thrust of the article relates to the cancellation of live HAWK intercepts against the cruise missile. The live HAWK test against the cruise missile has been planned and remains in the schedule for February 1978. This data is tentative since the schedule has not been firmed at this point, but it has not been cancelled as indicated in the article.

The article also comments on the ability of the current Soviet SAMs to counter U.S. cruise missiles. While current Soviet SAM or air defense capabilities were not a specific topic of the DDR&E study, intelligence data on these systems indicate that these defenses would have a very limited effectiveness against the cruise missile.

Although the capability of the current HAWK to counter cruise missiles was not examined (a significantly improved HAWK was), it is believed that HAWK would have only a very small lethal radius. The basic issue is not "can a system intercept a cruise missile" but "over what radius is a system lethal to the cruise missile?" A small anti-aircraft gun can have a lethal radius, but it is very small (perhaps a half mile) and therefore the gun does not represent an effective defense system. The situation is similar to that of intercepting an ICBM. Although SAMs may have some capability against an ICBM, the lethal radius is so small and the performance so erratic, that they are not viewed as effective defense weapons.

The article further states the HAWK is similar to the SA-3 Soviet SAM system. The technologies are vastly different and the SA-3 is not an effective weapon against the cruise missile.

The overall tenor of the article is that the U.S. cruise missile is highly vulnerable to the current Soviet SAM systems. We do not agree.

The article states that the SA-10 is now guarding the Russian homeland. This is not the case.

ARTICLE

Secret computer studies show that the existing U.S. cruise missile would not have a chance of penetrating the Soviet Union's sophisticated defense system, a revelation acutely embarrassing to President Carter and threatening to the prospective SALT II agreement.

COMMENT

1. There have been several studies which have examined the capability of cruise missiles to penetrate the defense of the Soviet Union. Even the most pessimistic results do not support a statement that cruise missiles would not have a chance of penetrating the Soviet Union's defense system.

ARTICLE

The studies, conducted jointly over the summer by a private contractor and the Pentagon, found that a scheduled "live" test: would result in the Tomahawk cruise missile's being shot down by U.S. defenses. Consequently, the Defense Department some two weeks ago canceled the "live" test and substituted a "dead," or simulated, test. That was intended to sidestep severe embarrassment for the weapon that became strategically crucial when Carter shelved the B-1 bomber.

COMMENT

2. Summer studies were conducted which addressed the general topic of cruise missile survivability with the purpose of examining how cruise missiles could be made even more survivable than they are presently. This problem was approached by examining methods of improving counter cruise missile defense systems. These summer studies did not address any scheduled "live" test. No "dead" or simulated test has been substituted for a "live" test for any reason. Thus the issue of side-stepping severe embarrassment is moot.

ARTICLE

But word has filtered out of the Pentagon, giving ammunition to Capitol Hill critics of the Carter defense policy. The new strategic arms limitation agreement that is being negotiated in Geneva becomes more vulnerable than ever to criticism that it gives the Soviet Union a dangerous advantage.

ARTICLE

A Defense Department spokesman told us there was no computer study made and that there will be "live" tests of the Tomahawk. But our sources at the Pentagon reaffirmed in detail the story of the cruise missile crisis.

COMMENT

4. The Pentagon spokesman responded to a question about a "computer simulation" of an Improved Hawk against a cruise missile. Computers have been used as an aid to predict detection, acquisition, and tracking performance of the Improved Hawk and other SAM systems against a cruise missile. However, there have been no computer simulations of a complete firing sequence. Tests including live firings of the Improved Hawk were and still are planned for the cruise missile survivability test program. There is no cruise missile crisis.

ARTICLE

The President's unexpected decision against B-1 production transformed the cruise missile from a theater to a global weapon. The Tomahawk, the only existing cruise missile, was developed as a sea-launched weapon but eventually will be launched from heavy bombers. In this manner, it has become a critically important U.S. strategic weapon.

COMMENT

5. The cruise missile has been conceptually a global weapon since its inception long before President Carter's B-1 cancellation decision. No decision has been made to select the Tomahawk as the cruise missile to augment the capabilities of our heavy bombers. A flyoff competition will be conducted between the AGM-109 (a Tomahawk variant built by General Dynamics) and the AGM-86B (built by Boeing) to determine which is more suitable as an air launched cruise missile.

ARTICLE

The Tomahawk was to be tested beginning Dec. 6 at Nellis Air Base in Nevada against the U.S. Hawk air defense system on a "live" basis—the surface-to-air missile actually sent against the cruise missile (which would be launched from a slow-flying aircraft). But the computer studies showed that the Hawk radar would locate the Tomahawk and a surface-to-air Hawk missile would shoot it down.

COMMENT

6. No live firing of any surface to air missile was ever scheduled against the Tomahawk in Dec. 1977. However, a Tomahawk flight test has been scheduled for that time-frame to assess the capability of the Improved Hawk to acquire and track a cruise missile without an actual firing. This testing is directed at gathering information that will be helpful in structuring "live firing" tests scheduled at a later date. This test will take the following general form:

a. A Tomahawk will be launched from a jet aircraft.

b. The Tomahawk will transit fly-past a test site.

c. Located at that test site will be various components of the Improved Hawk missile system.

d. Those Improved Hawk components will be employed to attempt to acquire the track the Tomahawk on radar.

e. If firing conditions are met, (i.e., proper tracking time and relative position) an Improved Hawk flyout trajectory will be computed to determine an estimated miss distance.

ARTICLE

The implications are unnerving. The Hawk is similar to the Soviet SA-3 system, which the Russians consider obsolete and peddle to their client countries. If the Tomahawk cannot get past the SA-3, what chance would it have against the far more advanced Soviet SA-10 that is now guarding the Russian homeland?

COMMENT

7. Neither the Hawk nor Improved Hawk is similar to the SA-3 system. The Improved Hawk to be used in the cruise missile survivability test program is superior to the SA-3. The SA-10 is in development and is not "now guarding the Russian homeland." It will be a number of years before the SA-10 will be operational in significant numbers.

ARTICLE

The decision was made to scrub the "live" test, firing the Tomahawk but not actually dispatching the Hawk surface-to-air missile—thereby saving the glamour weapon the indignity of being shot down. Instead, the test will be simulated by computer in a "dead" test.

COMMENT

8. No decision was made to scrub a "live" test nor is there conclusive evidence that such a test would shoot down a cruise missile. The test scheduled in December is not a "dead" test, but the same test that is frequently run against manned aircraft. This test will include the capability of the Improved Hawk system to detect, acquire and track a cruise missile.

ARTICLE

Rep. Jack Kemp of New York, an important Republican voice on defense, plans to take to the House-floor to accuse the Defense Department of "rigging" a test. At the least, experts believe, a simulated test always poses the temptation of self-deception.

COMMENT

9. With the exception of actually firing the Improved Hawk, the tests are real. Simula-

tions of missile firings can be deceptive and could favor either the cruise missile or the Improved Hawk. That is the reason "live firing" tests have been programmed as a part of the cruise missile test program.

ARTICLE

Actually, there have been precursors of the Tomahawk's vulnerability. The radar of the F-15 has picked up a Tomahawk in flight. Testing of the Tomahawk against radar aircraft scheduled through next April at the China Lake and Point Mugu naval test sites in California now becomes the source of apprehension at the Pentagon.

COMMENT

10. The author is misinformed. The F-15 has never been employed in a Tomahawk flight test. Future flight tests of Tomahawk against radar-equipped aircraft are programmed.

ARTICLE

Although the cruise missile team has boasted that its weapon presents radar a cross-section the size of a seagull, that may be too big. Further reducing the cross-section or increasing the missile's speed would require major changes. Nor is there room on the cruise missile for anti-radar countermeasures; the miniaturized motor and warhead take up all the limited space.

COMMENT

11. If a requirement is determined by these flight tests, considerable latitude exists in current cruise missile designs to improve survivability.

ARTICLE

"I'm very much afraid," one technical expert told us, "that the cruise missile is about one-weapon generation away from being able to penetrate Soviet defenses." Other experts believe a swarm of Tomahawks could overrun Soviet air defenses, but that would require thousands of cruise missiles, a number neither planned for production nor permitted under the proposed SALT II treaty.

COMMENT

12. The Navy continues to believe that a reasonable number of cruise missiles will be highly effective in the face of Soviet defenses.

ARTICLE

Yet, without a B-1 bomber, Soviet superiority in heavy missiles would provide all the more lopsided a strategic advantage if the cruise missile cannot penetrate Soviet defenses. Therefore, even though it lost the fight for the B-1, the Air Force is desperate for a penetrating bomber and is pushing for a remodeled FB-111 (the old TFX) as a substitute.

COMMENT

13. The Secretary of Defense, in his statement to Congress, affirmed the requirement for both cruise missiles and penetrating bombers.

ARTICLE

In the absence of a penetrating bomber, the Tomahawk's ability to get by even obsolete U.S. defenses is of the most intense interest. If it cannot pass a "live" test, the credibility of the entire U.S. strategic-arms policy is in doubt.

COMMENT

14. Projected force structure retains a penetrating bomber force, thus the cruise missile will not be operating in isolation.

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## PANAMA PLEBISCITE: A DEMOCRATIC RATIFICATION AND A RATIFICATION OF THE DEMOCRATIC PROCESS

Mr. CRANSTON. Mr. President, the final results of the plebiscite in Panama on the new Panama Canal treaties were announced at an official ceremony on October 28, 1977. We had known from informal reports that Panamanians had voted 2-to-1 in favor of the treaties. The official tally, certified by the Provincial Polls Committee to the National Electoral Tribunal was 766,232 total votes cast; 506,805 "yes" votes and 245,117 "no" votes—better than 2-to-1 for the treaties. Of the total, 14,310 ballots were voided.

I was impressed with both the results of the plebiscite and with the successful exercise of the plebiscite itself as an instrument of the democratic process.

First, the Panamanian Government took active measures to inform Panamanian citizens about the treaties. Open and free debate on the treaties was permitted and encouraged. Thorough procedures for verifying the vote were followed. These factors combined give great credibility to the better than 2-to-1 vote in favor of the treaties by Panamanians.

Second, I am greatly encouraged that this democratic process was successfully carried out in Panama. I am confident that the United States will use its improved and renewed ties with Panama—the result of signing, and, hopefully, ratifying the new Panama Canal treaties—actively to encourage such democratic procedures and institutions in Panama. The fact that this vote was conducted in Panama is a constructive consequence of the effort of our country and theirs to work out a treaty beneficial to all concerned. The development and use of democratic practices and procedures in Panama will only enhance the recognition and protection of basic human rights in Panama.

Mr. President, the Panamanian plebiscite is the counterpart to our ratification procedure. But obviously, it is a different system and unfamiliar to many Americans. To provide a better understanding of the plebiscite system under Panamanian law, I ask unanimous consent that some questions and answers on the treaty plebiscite be printed in the RECORD. These questions and answers are based on information provided by the U.S. Embassy in Panama.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS ON THE PANAMA CANAL TREATIES PLEBISCITE

1. Who was eligible to vote in the plebiscite on October 23, 1977?

All Panamanian citizens who were at least 18 years of age and who had not lost citizenship rights (e.g. for conviction of a criminal offense) and who were in Panama on that day. The Panamanian Government announced that there were approximately 788,000 eligible voters. Voting is not compulsory.

2. What had the Panamanian Government done to ensure that voters were well informed about the treaties?

The Panamanian Government coordinated an information program regarding the significance of the treaties and detailing what changes the treaties would mean for Panama. Full texts of the treaties and the related documents were published as separate supplements by the Government and distributed with two daily morning newspapers and one afternoon daily. Also, members of the Panamanian negotiating team and other Government officials appeared at many public meetings in Panama to explain the treaties.

3. Were groups and individuals opposed to the treaties free to present their views to the public?

The Panamanian Government announced that public discussion of the treaties would be completely free. The Government appears to have fulfilled this pledge of open debate, even to the extent of assisting groups opposed to the treaties in publishing their message. Students organizations against the treaties and against the economic policies of the Panamanian Government received full-page donations in three Government daily newspapers. Their ads urged Panamanian voters to vote against and used strong language to condemn the treaties, and, by implication, the Government which negotiated them. The Government appeared not to have censored the content of these ads. Many newspaper columns criticized the terms of the treaties, and accounts of meetings by political and professional groups opposed to the treaties appeared frequently. However, in the last ten days before Plebiscite day, groups opposed to the treaties complained of difficulty in obtaining radio and TV time and newspaper coverage.

4. What is the method of voting in a plebiscite?

The voter appears at the polling place, presents his or her national identity card to the Poll Committee, and signs his or her name and identity card number on a Precinct Register. The voter is then handed a plain manila envelope and then goes into a private voting booth. In the booth are two stacks of ballots: "yes" ballots are of one color and "no" ballots are of another color. On each ballot is printed either "yes" or "no" and the following words: "I am in agreement with the new Panama Canal treaty, the Treaty on Permanent Neutrality of the Canal and the Operation of the Canal, the Appended Agreements and Annexes Signed between the Governments of Panama and the United States on 7 September 1977." The voter selects either a "yes" ballot or a "no" ballot, places it in the manila envelope leaves the booth and deposits the envelope, in a sealed ballot box. The box is on a table where the three members of the Poll Committee sit. The voter then puts a thumb print by his or her name on the voting register, and a voting official perforates the voter's national identity card to prevent multiple voting by the same person.

5. How are the ballots counted and what measures are taken to ensure an accurate count?

When the polls close, the sealed ballot boxes are publicly opened and envelopes counted. The number of envelopes must not exceed the number of names on the list of persons who voted. If there are more envelopes than recorded voters, the difference is eliminated by discarding at random enough envelopes to equalize the number of envelopes and voters. The ballots are then removed from the envelopes and the number of "yes" and "no" votes tallied. A report of the vote result is sent to the National Electoral Commission as well as to a District Polls Committee. The District Committee also received all the voted ballots and is required to check the accuracy of the reports of the individual Precinct Poll Committees. Then the District Committee makes a report to the Provincial Polls Committee which further certified the vote results of the various Precincts in its Province and issues a final report to the National Electoral Tribunal.

6. What provisions were made for independent poll watchers?

Panamanian law authorizing the plebiscite does not specifically provide for independent poll watchers. But of the three members of each Precinct Committee, one is a citizen appointed by the National Electoral Tribunal from a list of names submitted by a local community board, and the second members are chosen by the Tribunal from lists of educators, students and professional, civic,

cultural and religious groups. The third is selected by the Tribunal directly. The Panamanian Government also invited university rectors from North and South America to observe the plebiscite. Erik Suy, United Nations Undersecretary-General and legal counsel, represented the N.H. Secretary-General at the plebiscite. Additionally, many members of the international press were in Panama on Plebiscite Day to observe the voting process.

In conclusion, Mr. President, knowledge of the democratic plebiscite procedure gives me greater confidence that Panamanian sentiment on the treaties has been fairly measured after open and free debate. The plebiscite in Panama thus stands not only as a democratic ratification of the treaties, but I am hopeful that it is a large step in the ratification and adoption of the democratic process by the Government and for the people of Panama.

## RADIO FREE EUROPE—RADIO LIBERTY

Mr. DOLE. Mr. President, one of the finest institutions for preserving the world's access to information is Radio Free Europe/Radio Liberty. On a typical day RFE reaches an audience of 13 million people in Eastern Europe in 6 major languages, and RL between 3 and 4 million in the U.S.S.R., broadcasting in 16 languages spoken in Russia. Although RFE/RL operates with public moneys, it is not a Government organization. Rather, RFE/RL reports news and activities free of censorship and control.

A Washington Post editorial summarized RFE/RL programing: "What both stations attempt to do is tell the people of Eastern Europe and Russia news about themselves and their own countries which their governments don't want them to hear. They do their job professionally, responsibly and effectively."

Mr. Sig Mickelson, president of RFE/RL, Inc., recently delivered an inspiring address before the Boston World Affairs Council wherein he discussed the mission of these broadcasts, reactions to the programs and challenges in the future.

I request unanimous consent that Mr. Mickelson's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE SOVIET THREAT TO VOICES FOR DETENTE

Today I want to discuss an idea that stirred emotions in Boston more than two centuries ago. It spread throughout the American colonies, became a part of our Constitution and was adopted by many other great nations.

Of course, I speak of our right to communicate openly, to express ideas freely and to hear all sides of an issue.

The founding of the Boston Gazette in 1719 provided a nucleus around which were developed many of the ideas which were later to shape the American Revolution. The newspaper, even though in constant danger of suppression by the Crown, became the mouthpiece of such colonial patriots as the Adams brothers, Joseph Warren, Josiah Quincy, Samuel Cooper and James Otis. As a result it played a significant role in galvanizing support for freedom that eventually led to independence. Otis resigned in 1751 as Advocate General, declaring that acts of the British Crown which violated the "natural rights" of colonials were null and void. As head of the Massachusetts Committee of Correspondence, he proposed an inter-colonial meeting which became known as the Stamp Act Congress. We know well what followed.

I speak of Otis not just to flatter you by praising a Bostonian. Instead I invoke his name and that of the Boston Gazette to warn that one principle which grew out of those historic days, the free flow of information, is now in jeopardy. Widespread distribution by the Gazette of Otis's stand and of the issues which prompted it helped create a tradition which this country has followed to this day.

America's experiment, we must remember, was unique in the world a short time ago. The right to obtain facts and opinions, even though they might be contrary to the government's position, was unparalleled in history. It was given legal status for the first time by a New York court which in 1735 acquitted John Peter Zenger, a New York printer, of a charge of printing and publishing seditious libel. The Defense based its case on the theory that truth constitutes a legal defense. This principle has since become a foundation stone of American communications law.

The right to a free press has become so sacred to us that perhaps we now have more faith in it than in our government itself. We have seen governments fail—but the free flow of information continues as though from a refreshing spring.

We make mistakes—but our errors are ones of judgment. Information is available to make sound decisions. We know that our government is imperfect. It's never totally free from abuse by individuals or institutions—but we have the facts to make corrections through our legislative and judicial process.

Indeed, our access to information in the United States is even increasing. The Freedom of Information Act and other recently enacted measures now make available almost every government document that previously remained secret.

We are the prime example of what Alexandr Solzhenitsyn meant when he declared, "publicity and openness, honest and complete, that is the prime condition for the health of any society."

Perhaps because this stream of information flows so deeply in our system, we fail to see what is occurring in the rest of the world. We fail to see that barriers are being constructed to cut the flow to a trickle.

Radio Free Europe and Radio Liberty have become a window for us in recent years. Not only do the two radios provide a way for East Europeans to look out—but also for us to look in.

My view through that window is both heartening and frightening. Never before have so many persons within the Soviet Union and its Warsaw Pact countries been so well informed about events in their own countries and the western world. But, perhaps as a result, freer communication is now under a massive attack and is in jeopardy worldwide.

The objective of the attack is not solely to halt communication from the West to the peoples of Eastern Europe and the Soviet Union. The attack also is directed toward curtailment of media activities in almost every continent.

The attack is so massive that it now must be considered as a direct threat to each person in the free world. And unless we parry this Soviet thrust, much of our progress during the last two centuries surely will be lost.

The threat comes in several forms.

Radio Liberty and Radio Free Europe have become focal points of an intensive Soviet campaign to halt broadcasts to East European and Soviet listeners about events in their own countries. Efforts to silence these twin voices of local news will peak next month at the Belgrade Conference, attended by 35 signatory nations of the Helsinki Agreement. Then, of course, we have the continuing problem of Soviet jamming of our broadcasts to prevent knowledge of events in those countries. And the third is a move in UNESCO to obtain international endorsement of national censorship.

I'll address each of these threats. But first, let me put Radio Free Europe and Radio Liberty in the proper perspective.

The two radios are now tied into one administrative structure and financed primarily with public funds, although we do still depend on some private financial support. Our objective is based on this Congressional declaration: "Open communications of information and ideas among the peoples of the world contribute to international peace and stability—the promotion of such communications is in the interest of the United States."

Radio Liberty broadcasts in 16 languages spoken in the Soviet Union. Despite extensive jamming it reaches three to four million people daily. Radio Free Europe broadcasts in six of the major Eastern European languages, reaching 13 million listeners daily. Only Romania and Hungary do not jam its broadcasts.

The Soviets, themselves, have penetrated others' air space unhindered for many years. For instance, they beam ten hours of shortwave broadcasts at us daily in English, and 240 hours in some 80 other languages targeted toward every continent.

Radio Liberty and Radio Free Europe have different program objectives from the Voice of America and western government radios. The others promote understanding of the sponsoring country. We stress the thesis that peace is best served where people know what is happening both at home and abroad. Much of our broadcast time is devoted to news of that area where our beam is targeted. We attempt to serve as their *local* radio stations.

During an interview in Moscow in 1972, Alexandr Solzhenitsyn commented on our effectiveness. He said, "If we hear anything about events in this country, it is through them—the Radio Liberty broadcasts."

A recent Jewish emigrant, Alexander Tiemkin, related an experience about his daughter, Marina, who was prevented from leaving the USSR:

"I stood one Saturday outside a Moscow synagogue and two unknown young men stood nearby. One of them told the other the whole story of my daughter. He said he heard it a day or two before on Radio Liberty. That was good news to me. If a person knew that the case of someone in trouble was broadcast on Radio Liberty, that was considered in a way, a sure sign that there was hope for that person."

Broadcasts frequently are taped and circulated widely into regions where jamming makes our radios impossible to hear. We broadcast "samizdat" or uncensored writings by Soviet authors. Tapes of these broadcasts—avidly sought within the audience area by hundreds of thousands—include the works of those such as Solzhenitsyn, Sakharov, and Bukovsky.

There has been a notable increase in the number of samizdat documents brought to our stations in Munich. More than one third defended human rights. There are many petitions by Soviet citizens in behalf of individual persons and causes, such as those opposing persecution of Crimean Tatars and those defending the right to emigrate.

These were broadcast by Radio Liberty in the appropriate languages to provide Soviet citizens news about fellow citizens. (I might add that we have a regular program in yiddish, a broadcast with a small but vitally interested group of followers.)

Our success is possible with a relatively small budget. Our current budget of $53.3 million can pay for far less than in the past because of erosion through inflation and the sagging value of the dollar in Germany where 80 percent of our funds are spent. In fact, it has been necessary to decrease the number of RFE/RL employees by 31 per cent to 1,785. It has been difficult to maintain morale in the face of this constant financial pressure.

On the other side, however, Soviet expenditures to jam our broadcasts have increased many fold. They now spend several times more to jam our broadcasts than we spend to make them.

Soviet liberalization of policies in recent years toward the flow of information, toward dissent, many western observers see as the direct result of RFE/RL's ability to inform their citizens about events in their own countries and the West.

Public opinion in the Soviet Union has become a force with which their leaders must now reckon.

The official censors are now letting items past that would have been forbidden ten or twenty years ago. It is clear though that they are not easing up with their blue pencils out of any recently discovered reverence for free communications. They are simply responding to the fact that certain information is going to reach their people anyway so they might as well let their own media reveal at least a part of the story.

Without our efforts, the Soviet Union could have maintained even more of an isolated society, as witness their traditional attitude towards news coverage.

A little more than 20 years ago, as the Chief Executive Officer of CBS News, I spent a few days in Moscow visiting Dan Schorr who was then representing our organization in the Soviet capital. At that time the American press corps was limited to a handful of U.S. news agencies, including the wire services, New York Times, the Baltimore Sun, the Christian Science Monitor and CBS News. Freedom to cover the news was sharply limited—limited largely to reading Soviet newspapers and periodicals, provided you were assigned a competent translator by the Soviet government.

On one occasion, I went along with Dan to the Central Telegraph Agency in Moscow for his 90-second contribution to CBS World News Roundup—to be specific it was on May Day 1957. He prepared his copy in his limited quarters at the Metropole Hotel. At the Central Telegraph Agency he placed his proposed broadcast in a slot below a carefully shuttered window where it was withdrawn by an unseen functionary of the Agency.

After a few minutes of sitting on a hard bench in the anteroom, we saw the copy returned through the slot with a number of excisions. Dan carried it with him to what looked like a telephone booth but was actually a broadcasting cubicle. At the appropriate time he was given a verbal goahead and proceeded to read his copy as it had been edited for him by the phantom censor. There was no opportunity to argue the case for inclusion of the deleted items or ask for reasons or clarification. It was simply a matter of putting the piece on the air as edited or forget it.

Conditions have changed, if not dramatically, at least considerably. The number of American correspondents in the Soviet Union has grown by at least three times. The invisible censor has now vanished. Contracts with Soviet officials and citizens, though hardly free by western standards, are at least possible in increased volume. Travel, while not assumed to be a correspondent's right, is not as tightly restricted. This is hardly a foreign correspondent's notion of Utopia. He still runs the risk of expulsion or even of imprisonment as witness the case of Bob Toth of the Los Angeles Times but certainly progress has been made no matter what the motivation or the degree of change.

And western radio broadcasters, particularly those of Radio Liberty, can claim much of the credit. The Soviet leadership is smart enough to know if the news is coming in anyway, some concessions must be made in order to avoid looking ludicrous.

From the Kremlin point of view, it apparently makes much more sense to relax censorship a little now while at the same time making every effort toward destroying Radio Liberty and Radio Free Europe. They are putting pressure on the governments of the countries in which we operate and using the Helsinki Agreement, or I should say, more precisely, their interpretation of the Helsinki Agreement, as a weapon to drive us out of business. If they should ever be successful, you can bet that the phantom censor will materialize once again and take his place once more behind the now closed slot at the Central Telegraph Agency.

At Belgrade, the Warsaw Pact representatives are expected to focus strongly on Radio Free Europe and Radio Liberty in an effort to restore their total control over information. Their charges again will be that we violate principle six of the Helsinki Agreement by interfering in the internal affairs of nations.

However, the seventh principle of the Agreement was developed specifically to protect international communications. It specifies that the signatories should abide by the United Nations' Universal Declaration of Human Rights which states: "Everyone has the right of freedom of opinion and expression; this right includes freedom to hold opinions without interference, to seek, receive, and impart information and ideas through any media and regardless of frontiers."

Just as Soviet effort to abrogate the agreement is contrary to world treaties, their jamming violates the spirit and often the letter of a raft of international declarations, beginning with a U.N. General Assembly resolution on December 1950.

In the same vein, the Soviets and a number of Third World nations have begun a concerted effort in UNESCO to obtain international agreement supporting what amounts to national censorship. They advocate a plan wherein nations could force all media working within that country to write only supportive material about that country and government.

This would effectively halt the flow of information from virtually every totalitarian regime in the world. Our people and those elsewhere in the free world no longer would obtain information upon which to make sound judgments.

In effect, the Soviets would be able to "jam" the flow of information to us on a worldwide scale—just as they now jam our broadcasts to the Warsaw Pact peoples.

And so today we face the threat of a worldwide tyranny just as the colonialists two centuries ago faced the oppression of the Crown.

Some today might say that they comprehend how stopping the flow of information from elsewhere in the world poses a direct threat—but that jamming of RFE/RL and the Belgrade conference offer no immediate threat to the United States.

I believe that this attitude provides our biggest obstacle to preserving this freedom.

I cite our belief in the fundamental right to decide issues freely, with knowledge. When one person is denied this right, others are threatened because that person acts on uninformed judgments. He builds decisions on a false foundation. His judgments, when multiplied across the breadth of a nation of 250 million, form national policy about domestic and foreign matters.

When individual judgments have a faulty base, national policies can only move toward misconceived objectives. Thus, when a nation fails to permit the flow of information, all nations must face the consequences of a warped rationale. Thus, it is now with the Soviet Union and its totalitarian allies. In this way the jamming of RFE/RL facilitates the Soviet thrust to block candid reporting, and give rise to a perspective which in turn becomes a threat to each of us.

Here are Solzhenitsyn's words in his Nobel Prize speech: "Suppression of information renders international signatures and agreements illusory. Within a muffled zone it costs nothing to reinterpret any agreement—even simpler, to forget it as though it had never really existed."

I wish to reiterate that one thought in concluding. The denial of any person's access to the truth is a threat to all mankind—just as it was perceived here in Boston two hundred years ago.

Censorship precedes tyranny just as surely as wind precedes rain. America's refreshing flow of unhindered information is not necessarily a self-renewing natural asset. It is a perishable flow—one easily damned by the Soviet Union and those who share their convictions.

We must preserve the world's access to information—or face the loss of our own.

## A PERSONAL TRIBUTE TO SENATOR HUMPHREY BY DR. ALBERT SAUNDERS

Mr. ANDERSON. Mr. President, on October 20 I attended a dinner held by the Minnesota State Society to honor my colleague and fellow Minnesotan, Senator HUBERT H. HUMPHREY.

Senator HUMPHREY has been the object of a rare outpouring of public honors and affection. Of all the splendid and touching tributes that analyze this man's special role in history and in the hearts of persons of every social rung and political persuasion, none is more eloquent and sensitive than the invocation that opened that night's program, and translated a personal portrait into a message for each of our lives.

Some of those present knew that Dr. Albert Saunders spoke from intimate knowledge and conviction. Besides being an ordained Presbyterian minister, he has served for years as Senator HUMPHREY'S legislative director.

No tribute is finer than that of persons who share our daily routine, and can reconcile the essence with the image of a public figure.

Mr. President, I ask unanimous consent that this sincere and illuminating tribute by one of Senator HUMPHREY'S staff be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

INVOCATION

God of our fathers; Lord of generations yet to be; Creator and Redeemer of our present living—

We honor a public man who enriches our private lives by showing us how:

To learn from the fear and despair of deprivation, and so to use privilege and advantage to help others look to the future with hope;

To live life to its utmost, and so to make each day a new beginning;

To fight discrimination in all its self-destructive forms, and so to treasure human dignity and strengthen the social fabric;

To work, and so to grasp hold of the impossible and unpopular task;

To promise, and so to establish a new commitment to be fulfilled;

To think, and so to seize and refine an idea that challenges common wisdom;

To demand, and so to mold a better opportunity for others;

To strive, and so to marry the limits of power with the strengths of responsibility;

To believe in people, and so to make them believe in themselves;

To be tested, and so to deal patiently and firmly with adversity and defeat;

To face pain, and so to share the deep knowledge of joy;

To weep, and so to feel, and to know ourselves;

To love, and so to exercise discerning compassion;

To dream, and so to create a new possibility for mankind;

And to hope, and so to confront wonder;

As he so many times has made today's unformed thought or unanswered question become tomorrow's national priority,

So may we be lifted from our common pursuits to try the untried, to perceive and yet to cut through the complex, and to make the life that surrounds us a little better for our having been part of it.

And as he has unhesitatingly both grasped the hand of the powerful and embraced the crippled body of the disadvantaged,

So may we put aside our vanity, pretensions, prejudices, and self-gratification, and find beauty and possibility in all your people for whom you have called upon us to be servants.

Our Father, as you look upon him and each of us, your children:

Let us share an increased measure of your patience, your wisdom, your anger to oppose what is wrong, and your love to create what is right;

Let us not despair over what might have been, but rather be deeply thankful for what is and can yet be;

Let us not be troubled by the possibilities of tomorrow, but rather face the problems and seize the opportunities of today by which our futures are molded;

Let us open our hearts and minds to your truth and your hope for what ought to be;

And let us celebrate this moment by thanking you for the opportunity of knowing this man and saying straight-out;

We love him.—Amen.

## TESTIMONY OF AMERICAN LEGION COMMANDER ON THE PANAMA CANAL

Mr. THURMOND. Mr. President, one of the most convincing cases against ratification of the Panama Canal treaties was made by American Legion National Commander Robert Charles Smith in his testimony before the Senate Foreign Relations Committee on October 14, 1977.

Commander Smith spoke for 4 million members of the American Legion and American Legion Auxiliary. As he eloquently stated before the Committee, the Legion represents ". . . a composite and microcosm of the United States."

Every Member of the Senate should be aware of the American Legion position. Their position is unequivocal and farsighted, and as usual, the result of many years of careful research and study. After an issue is debated in committees and on the floor of their national convention, the organization adopts an official position.

In his testimony before the committee, Commander Smith presented the official position of the Legion.

The committee also benefited from Commander Smith's personal background. He has long been active in civic and business affairs, and knows the pulse of our country.

As a manager of financial and administrative services for International Paper Company in Springhill, La., he was able to evaluate the economic ramifications if the Senate ratifies the treaties.

Mr. President, in order to share this excellent statement with my colleagues, I ask unanimous consent that a biography of Commander Smith and a copy of his statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH

A 31-year member of The American Legion, Robert Charles Smith, Springhill, La., was elected National Commander of The American Legion at the closing session of the 59th National Convention in Denver, Colorado, August 25, 1977.

He will serve through the 1978 National Convention to be held Aug. 18–24, 1978, at New Orleans, La.

Smith, a veteran of World War II, is manager of financial and administrative services for the International Paper Company's Springhill mill.

Long active in Legion affairs, Smith has served his local post, Banks-Strong Post No. 166, Springhill, La., as finance officer and commander. He was active many years on the department (state) level of the Legion and was Louisiana Legion Commander in 1954–55. He has served the National Organization as a National Vice Commander, as a member of the National Americanism Commission and The American Legion Endowment Fund Corporation. Prior to his election as National Commander, Smith served as Louisiana's National Executive Committeeman. The National Executive Committee is one of the policy-making bodies of the organization.

In addition to his activities in The American Legion, Smith has been named "Young Man of the Year" by the Springhill Jaycees and has served in many civic positions of responsibility. He has been a member of the local park board, an advisory member of the selective service system and a director and president of the Springhill Chamber of Commerce.

Commander Smith has also served as a member and chairman of his Parish (county) Welfare Board, the president of the Louisiana Tech University's alumni association, a Member of the executive committee of the alumni association's foundation, chairman of the United Givers Fund for the parish and as a member of the taxation committee of the Louisiana Manufacturers Association.

He is an active member of the Springhill United Methodist Church and was honored in 1966 by the Ruston District as "Layman of the Year" and in 1973 by the Norwela Council, Boy Scouts of America when they presented him the Silver Beaver Award.

Smith is also a member of the Board of directors of Springhill Bank & Trust Co., and First Federal Savings & Loan Association of Springhill, La.

A graduate of Louisiana Tech University with a degree in accounting, Smith is a member of Kappa Sigma Fraternity, the National Association of Accountants, Data Processing Management Association and Beta Alpha Psi Accounting Fraternity.

A native of Springhill, La., Smith continues to reside there with his wife, the former Lucille Wooster. They have three daughters and two sons.

STATEMENT OF ROBERT CHARLES SMITH

Mr. Chairman and Members of the Committee: It is a distinct pleasure for me to appear before you today representing The American Legion. Needless to say, we are each aware of the thousands of inches of newsprint and the hours of television coverage which have been devoted to the proposed Panama Canal Treaty in the past month. My reason for appearing before you is two-fold: first, to represent the viewpoint and position of The American Legion as adopted by our recently concluded 59th National Convention, and to spell out—objectively and dispassionately—what our concerns are and why we object to this specific treaty.

With me this morning is our Chairman of The American Legion's Foreign Relations Commission, Dr. Robert P. Foster, who for the past 14 years has served as President of Northwest Missouri State University located in Maryville. Dr. Foster has visited Panama and, along with Commission members, has examined the Panama situation for quite some time. During this time, he has discussed the matter with treaty proponents and opponents, including both U.S. and Panamanian negotiators. He will be available for questions from the Committee following my statement.

Today, I have come to speak for our four million members of The American Legion and the American Legion Auxiliary. We represent miners in West Virginia; grain growers in Illinois and Iowa; energy producers of Texas; machinery manufacturers in New York; and shipping industry of all states where rivers and harbors open to the sea . . . altogether we represent a composite and microcosm of the United States. For most of us in The American Legion and all our citizens are either buyers or sellers of commodities passing through the Panama Canal.

Moreover, all of us are dependent on the protection of the U.S. Navy to control the seas surrounding our country in the center of the Western Hemisphere. Quite frankly, the main thrust from every Legion Post has been the same deep apprehension about the proposed Treaty with Panama. Not the least concerned were our Legion Posts in the U.S. Canal Zone. Did the United States really intend to abandon its citizens to a dictatorship? If so, what did the United States stand to gain from such a giveaway?

What our Legion people do not understand is why is it necessary to have a new treaty. Have we, the people of the United States, been unfair, unjust or dishonorable with the Panamanians? I think not. We have lived up to our agreements of 1903, and subsequent revisions of that Treaty. No one has accused the U.S. Government with inefficiency. In fact, the contrary is true.

There are suggestions that the discovery of Alaskan oil by our space satellites in the early '60s brought about sudden realization by the oil industry that the U.S. Canal Zone, a U.S. Government reservation, was not the ideal type of property for the shipment of large tonnage of crude oil. Perhaps some type of commercial arrangement, even with a foreign country, was preferable for a booming international business.

Witnesses before this Committee from the U.S. Canal Zone told our staff that one major oil company is already building a large oil pipeline across the Republic of Panama. The tree line is cut and the pipes are being unloaded. One of the Canal pilots told us he was on board the S. S. Pennsylvania Sun and S. S. Cove Trader when bargaining was going on inside the U.S. Canal Zone between Panamanian customs officials and the ships officers. The Canal pilot, Capt. Leonard E. Bell, heard the full story and it sounded like tales from the Barbary Pirates of another century.

There are suggestions that a few large in-

ternational bankers saw the possibility for placing large loans with Torrijos, either because Torrijos offered high interest rates, improved Panamanian management with lower labor costs, or some of the profits from the crude oil flowing from the north slope. In any case, the bankers must have seen the possibility of profits. We know that numerous U.S. and international banks have loaned billions to the Torrijos government and to Panamanian addresses.

There have been suggestions that Communist subversion started in the mid-50s from Prague inciting people to oppose U.S. ownership in the Canal Zone. This may have had a profound effect. The Washington Evening Star ran a story from Bonn, Germany on September 13, 1956 that "international communism has opened an agitation campaign in Latin America against U.S. control of the Canal Zone." Of one thing we can be sure, it was not U.S. national security interests that brought about these new treaties.

There are political considerations and military considerations to this treaty. There are economic and environmental problems of considerable magnitude for the United States, the Western Hemisphere and the entire world.

From a political standpoint, I think our firm consideration must be the belief and convictions of the people of the United States. Within the last two years, we have seen numerous polls to determine the attitude of U.S. citizens. Those polls have shown that from 50–90% of Americans oppose the proposed Treaties which were signed on September 7, 1977 by President Carter and Gen. Omar Torrijos.

We in The American Legion believe under our system of government that the will of the people is very important. The knowledge, the will and the dedication of our people provide the amperage to our national life.

At the Legion's National Convention in Denver, we heard the pros and cons of the proposed Treaty. We heard from Ambassador Sol Linowitz as pro-Treaty, and we heard anti-Treaty viewpoints from expert witnesses, including those of Senator Hatch. In our American Legion Magazine, we invited Panama's Foreign Minister Gonzalez Revilla's pro-Treaty and Congressman Daniel Flood's anti-Treaty to give their positions.

When it came time to vote on our Foreign Policy resolution at the Convention, we deliberately set the Panama Resolution, No. 445, aside so we could offer each Department from each State the opportunity to vote. The pressure to vote was so strong from the thousands of convention delegates that we could not take a roll call vote by state. Support of The American Legion's Resolution 445 which opposes the Treaty was unanimous. The silence of pro-treaty support seemed even more persuasive than did the unanimous vote against the Treaty. (A copy of this resolution is attached for your perusal.)

I will now discuss the reservations and objections which we have to this proposed Treaty. The first is the strategic and military importance of continued U.S. control of the Canal and the Canal Zone. At the onset, we realize that the United States has a one-ocean Navy with a global responsibility.

Today all but 13 of the ships in the U.S. Navy—the exception being the large aircraft carriers—can pass through the Canal. Moreover, we, along with the Congress, must be "forward looking" and long-range prognosticators regarding the true effects now and in the future of the proposed Treaty. As each of you are aware, we have made a national commitment to the "mini-carrier" concept. And, when they come on line in 3–5 years, I have been assured by the Navy that they can transverse the Canal, making the Canal even more important in a military sense in the years ahead.

Hanson Baldwin has recently written: "It is ironic, indeed, that in an era when the U.S. Navy needs the Canal to a greater degree than at any time since the end of World War II, Washington is considering its abandonment. The Navy today is in the same strategic bind it was in prior to World War II: It is a one-ocean Navy (in size and power) with two-ocean responsibilities. We are outnumbered in submarines and surface ships by the Soviet Union, and, more than at any period since 1945, the Navy must have a quick transfer capability between Atlantic and Pacific in order to meet sudden crises.

"General V. H. Krulak, USMC (Ret.), writing in the summer 1975 issue of Strategic Review, summarized the Canal's naval importance: 'In truth the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare-bones, one-ocean Navy.'

"During the Vietnam War about 98 percent of all supplies for our forces were shipped by sea; of this total, approximately 33 percent were loaded in East and Gulf Coast ports and transited the Canal. The volume of military-sponsored cargo in the four years from 1964 to 1968 increased, for dry cargo, by some 640 percent and for petroleum products by about 430 percent. And the number of U.S. Government vessels (chiefly naval) transiting the Canal increased from 284 in 1965 to more than 1,500 in 1968."

Within the military community, and among the retired and active military, there is great diversity of opinion. In addition to the letter of four distinguished Chiefs of Naval Operation, including the former Chairmen of the Joint Chiefs, Admiral Thomas H. Moorer, saying that the proposed Treaty is contrary to the security interests of the United States, we are hearing from many military leaders and the majority of these opinions, like the majority of our citizens, are opposed to the give away of the Zone and the Canal.

As you are aware, Admiral Moorer forcefully reaffirmed his views to this Committee earlier this week and clearly stated the indispensible strategic importance of the Canal.

From a military viewpoint, a commander never gives away strategic territory which he may have to fight to regain. The U.S. Canal Zone is strategic territory. All the military, both active and retired, agree on that point.

From an economy perspective, the Canal is vital to United States interests. In 1975, approximately 14,000 ships transited the Canal of which 45 percent originated in the United States and 23 percent were bound for the United States. No other nation even approaches the invaluable, economic stake which we have in the Canal. However, the Canal is important to all maritime commercial nations since 96 percent of the world's merchant fleet can transit it.

The Canal is just this year assuming an additional commercial importance to the United States as Alaskan oil begins to flow. When the Alaskan pipeline reaches its full capacity, it will yield 1.2 million barrels of oil a day. The west coast of the United States can accommodate only 700,000 barrels a day. This means that approximately 500,000 barrels a day cannot be used on the west coast, and must be transported to the east. No pipeline has yet been constructed across the United States, and the trip around the Horn, as has been demonstrated, is not economically feasible. Unhindered use of the Panama Canal is critical until an adequate pipeline can be constructed.

From an over-all economic perspective, should the tolls go up another 25-30 percent as projected by Ambassador Sol Linowitz, and the tolls since 1973, have already gone up about 50 percent, many of our exports will be priced out of the world market. The grain producers and dealers, for example, frequently depend on a fraction of 1 percent as their profit margin.

You may have read in the Journal of Commerce, September 20, 1977, where the New Orleans Port Director, Mr. Edward S. Reed stated: "Since grain exports are the United States' best source of balance of payments loans, I think it is incumbent upon the Federal Government to closely scrutinize the possible effects of canal toll increases on the farm commodities exported from the United States." Mr. Reed's comments would pertain to all farmers, farm commodities, shippers and port facilities involved in our U.S. agricultural exports.

In the same Journal of Commerce article, the President of Lykes Brothers Steamship Company, Mr. W. J. Amoss, Jr., expressed his opposition to the Treaty because of its adverse impact on Canal users. Mr. Amoss, who had previously supported the Treaty, said the proposed Treaty spelled sheer disaster for operators east of the Canal and going westbound through the canal.

I stress the economic impact that United States commercial interests will suffer because this starts the day the Treaty is ratified, Ambassador Linowitz has stated the tolls will immediately go up 25 to 30 percent. And just what are the economic facts for such port and shipping centers as Boston, New York, Baltimore, Hampton Roads, Charleston, Mobile, Houston and New Orleans?

I mentioned New Orleans last because Louisiana is my home state. People living along the bayou are genuinely concerned about the ramifications of this proposed Treaty on our trade, jobs and general economic conditions.

I do not wish to overstate the dangers we foresee for Louisiana and the Gulf States but 38 percent of all water-borne commerce, over $30.0 billion in world trade, move from the Gulf ports. Over one-half of all the grain exported from the United States moves from the Gulf ports and about one-third of these grains pass through the Panama Canal. The Port of New Orleans is the nation's number one importer of iron and steel products. Eighty-seven percent of these products arrive via the Panama Canal.

We could spotlight other ports and jobs threatened by toll increases. Hampton Roads for example is the world's largest coal port. Over half of the 32 million tons of coal leaving Hampton Roads goes through the Panama Canal. It is my understanding that over 300,000 jobs in Virginia are either directly or indirectly affected by the Hampton Roads port complex.

I noticed in a letter to the Editor of the Washington Post on 7 October 1977 that the Port of Baltimore has a vital interest in the Panama Canal. Seventeen percent of all Baltimore's foreign commerce utilizes the Canal. The letter also stated that Maryland's State Senate and House of Delegates had by unanimous vote supported Resolution 34 calling for the United States to retain sovereignty over the U.S. Canal Zone and the Canal.

Moreover, at the present time, the United States has an over-all investment in Panama of $7 billion. By the year of our total evacuation under the terms of the Treaty, that interest will have grown to $9.3 billion. To add insult to injury, the Treaty proposes that we pay some $50.0 million per year, plus $350.0 million in economic and military aid to have the Torrijos group take over the territory and property.

In short, all these elements of economic benefits which I have mentioned in structures, payments and loans for developments will in 23 years amount to the sum of $2.262 billion. This is compared to what Panama

would receive under the current Treaty during that same period, which would be the ridiculous amount of $52 million.

Contrary to popular argument, control of the Canal by the United States serves the best economic interests of the people of Panama. In 1976, U.S. agencies purchased over $29 million worth of goods in Panama, and we paid over $108 million in wages to non-U.S. citizens. United States private investments amount to 50 percent of the capital investment in Panama; and U.S. employees spent $39 million there.

In the Preamble to The American Legion Constitution, we pledge to "safeguard the principles of justice, freedom and democracy"—in 1977 terms this translates into human rights. As this Committee is aware, Panama is a dictatorship, or in the words of Ambassador Bunker before Congressman Murphy's committee, an "authoritarian" government.

The aspect of the Torrijos government which is most significant, is that it is a repressive dictatorship. Freedom House, the respected organization which ranks countries on the basis of human rights, gives Panama the lowest rating in Latin America. Panama received the same 1977 rating on political and civil liberties as the Soviet Union and was rated even lower than Cuba.

Gen. Torrijos came to power in Panama by a coup and is governing without the consent of the people. The truth is that since Gen. Torrijos participated in the overthrow of Panama's constitutional government by gunpoint in 1968, 1.6 million people have lost their human rights. There is no recognized party except the Communist Party, called the People's Party, El Partito del Pueblo. Furthermore, the monies from Panama Canal annuities do not go directly to the people, the money goes to the Torrijos power group.

As we are all aware, the Panamanian constitution requires a plebiscite vote of the people for ratification of any new Treaty, which will be held on October 23. The sad irony is that the controlled and censored Panama press—"guided" in the terms of our chief negotiator—will never give a full and objective account of the Treaty to the Panamanian people.

Another concern which we have is the political association and economic stability of the government in Panama. On the economic side; under Gen. Omar Torrijos, Panama's national debt has grown from $167 million to $1.5 billion. The debt service alone will consume 39% of that country's budget this year. Panama's Department of Planning indicates that to refinance loans coming due, together with the $139 million deficit, a total of $323.6 million will be required. Obviously, Panama cannot financially afford to have the Treaties rejected either.

Politically, Torrijos has also busied himself with making closer political and commercial ties with the Soviet Union. Again, according to the U.S. Information Agency, top officials from the Soviet Politburo and Central Committee of the Soviet Communist Party visited Panama last June. Almost immediately after the Soviet Politburo team left Panama, a Soviet commercial delegation headed by Nikolai Zinoviev arrived and concluded a major Soviet-Panama commercial agreement with the Torrijos regime. This agreement, according to news reports in the Torrijos-controlled newspaper Critica, could result in the opening of a Soviet bank to run Soviet commercial activities throughout Latin America as well as a series of other multi-million-dollar-trade and construction projects with Panama.

Whether it was a Treaty of intent or a pact of infinite promise, we don't know. The treaty was signed by Omar Torrijos' brother-in-law, Marcelino Jaen, and Soviet leader Nikolai Zinoviev who is also listed as a KGB agent. After the signing, Panama's Jaen declared the Soviet treaty ". . . is an event of deep historic signing, not only for our country, but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the represent a philosophy that is contrary to the destiny of Latin America."

with Fidel Castro and Cuba. Cuba under Castro continues to aggressively export and pursue communist domination and control of other nations. Several weeks ago, the New York Times reported that 4000 more Cubans were sent to Angola recently to "stabilize the nation's most serious crisis since the 1976 civil war." The 4000 Cuban troops would increase Cuban troop strength in Angola to 19,000. This to me clearly indicates that Castro hasn't backed off one inch from his declared goal of communist domination of the Western Hemisphere and the world.

Also of concern is the reliability of the Panamanian dictator to live up to what he signs. Panama has violated the present Treaty at least 11 times during the past two years. These violations included such militant acts as the Panamanian National Guard taking up positions in December 1975 within the U.S. Zone; attempting to arrest and actually shooting a citizen in the U.S. Zone in January 1976; setting off bombs and explosions in the U.S. Zone in October 1976, and capturing a vessel, the Sea Wolf, which was operating inside Canal Zone waters and burning and desecrating the United States flag.

Our Ambassador, whose official car was shamelessly destroyed several days ago, has protested such lawless Treaty violations, but one must question the wisdom of appeasing and making further concessions to a government whose recent history is pockmarked with deliberate violations of the current Treaty. If our current Treaty with Panama is being violated on a routine basis, where is the logic that such attitudes and behavior will improve between 1977 and 1999, the magic year when Torrijos is supposed to get everything, lock, stock and barrel?

I would like to turn now to the question of United States sovereignty. Many of the arguments for the switch in sovereignty and much of the conscious or subconscious motivation for it stem, in part, from ignorance or distortion of the manner in which the Panama Canal territory was acquired by the United States and of the wording of the original Treaty of 1903.

Contrary to these assertions from public officials who should know better, we did not steal the Canal, nor does Panama have residual, titular, or any other kind of sovereignty over it. The United States bought the Canal territory—a strip across the Isthmus of Panama some 50-miles long and 10 miles wide—at a cost to the American taxpayer that far exceeded the cost of the Louisiana Purchase, the Mexican cession, the Florida Purchase, the purchase of Alaska, or any other territorial acquisition.

Despite current contentions by the State Department that the 1936 Treaty revisions recognized Panama's sovereignty over the Canal Zone, it is clear that in both wording and intent the Treaty actually re-emphasized the sovereignty, in perpetuity, of the United States.

History and the law appear to indicate in no uncertain terms that there is no merit whatsoever to the concept that the Treaty of 1903 vested so-called titular sovereignty or residual sovereignty in Panama.

The wording is clear and unequivocal: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control" of the Canal Zone. "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

One cannot transfer sovereignty unless one has it. The United States has, and will retain until Congress decides otherwise, complete sovereignty and control over the Canal Zone in perpetuity.

Even Gen. Torrijos in his remarks following the formal signing acknowledged United States sovereignty and I quote: "What nourished the hopes of Panamanians for the *recapture of their sovereignty* was the feeling that the North American people fundamentally harbored no colonial aspirations," (emphasis added).

I will now turn to the Treaties and the accompanying Annex and Protocol. This analysis is based upon the limited time in which these Treaties have been available to this layman and I urge each member of this Committee to scrutinize these documents.

(1) Sovereignty is the crucial factor in the new Treaties. Both the Prologue to the Canal Treaty, and at least six other times in the document, Panamanian sovereignty over the U.S. Zone and the Canal is acknowledged. As I stated earlier, once Torrijos is granted sovereignty all other questions are irrelevant.

(2) According to our analysis of the Treaty, should Panama abrogate the Treaty, the United States would have no legal basis in international law to maintain its position in the former Canal Zone.

(3) Article II, Section 1, of the Canal Treaty specifies that it should "be subject to ratification in accordance with the constitutional procedures of the two parties." However, it would appear that the Executive Branch is seeking ratification of the treaties without seeking enabling legislation from the House of Representatives to transfer real properties, appropriation of funds and perhaps other legislation which is not spelled out, as required by the Constitution of the United States. This by-passing of the House of Representatives appears to be an usurpation of legal powers which is clearly conveyed to the House by the Constitution.

(4) Article XII, Section 2(b), states that "during the duration of this Treaty the United States of America shall not negotiate with third states for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree." In plain terms, the United States has surrendered its rights to negotiate for a competing canal elsewhere in the Western Hemisphere unless it has Panama's consent.

(5) Article V of the Canal Treaty directs that employees of the Panama Canal Company, their dependents and other American nationals should "abide by the laws of the Republic of Panama and abstain from any activities in competition with the spirit of this Treaty." This Article also directs that they abstain from any political acts in the Republic of Panama. As I stated earlier, there are American Legion Posts in the Canal Zone and I am deeply concerned about forcing American citizens to submit to a dictatorship and their surrender of rights as Americans.

(6) Article XIII relates to payments to Panama for the right to operate the Canal. One such payment of $10 million per year from profits is cumulative which means there is a possibility that we could, over the 23-year period of the Treaty, end up owing the Panama government $230 million.

Additionally, I have strong reservations and objections to the Neutrality Treaty: (1) Only Article IV of this Treaty bears upon U.S. responsibility concerning the neutrality of the Canal and the entire document is so vague as to be virtually meaningless. In my lay reading of the entire Neutrality Treaty, I find no assurance that the United States can intervene to assure the neutrality of that vital area.

(2) Article III(e) states that "vessels of war and auxiliary vessels of all nations shall

at all times be entitled to transit the canal." This statement assures the passage of warships through the canal of nations which may be at war with the United States.

(3) Article VI, Section 1, states that vessels of war and auxiliary vessels of the United States and the Republic of Panama "will be entitled to transit the canal expeditiously." The exact meaning of the word "expeditiously" is vague at best. Even more confusing is the interpretation placed on the word "expeditiously," by the Chief Panamanian negotiator, who said that the United States would not be given "preferential rights."

In Louisiana we regard a contract as no better or no worse than the intent and interpretation of this contracting parties. Treaties are actually a form of international contracts where nations agree to abide by the terms specified. As this Committee knows, we are getting a wide variety of interpretations on such matters as the right of intervention, the right of priority passage for U.S. warships. Escobar Betancourt has recently told Panamanian audiences that the United States wanted but did not get "priority or privileged passage." This information was later authenticated in a "confidential" cable released by Senator Dole which quotes Lopez Guevara that Article IV on neutrality urges U.S. officials to stop using the word intervention. Intervention is prohibited by international law.

It would be unwise at best to even further consider ratification of any treaties in any form until serious differences in U.S. and Panamanian interpretations are clearly and unquestionably resolved.

In brief summary, an evaluation of the facts about the Treaty have brought us to the day of the signing, September 7, 1977 . . . a bad day for the United States.

United States military and national security losses alone are sufficient to reject the treaty. We are giving up our naval fleet flexibility at a time when we have fewer than 400 ships in the entire United States Navy. Economic losses of the United States are difficult to calculate, but logic dictates that U.S. consumers and exporters are going to pay the toll increases. Additionally, the cost to the U.S. taxpayer is in the billions. The Torrijos government is living on borrowed money and borrowed time.

Politically, human rights under Torrijos are no better than they were under Hitler during the 1930s and yet by supporting this Treaty, our United States Government is propping up a dictatorship. Worse yet, our government is forcing Americans to live under totalitarian rule and abide by its laws and decrees. That's what World War II was all about.

The pressures the White House can bring are enormous as all of us know. The resources at the President's disposition almost defy our collective imagination. The Treaty signing festivities on September 7 were an example of Presidential style and substance. We in the Legion, while recognizing the awesome power of the Presidency and the Executive bureaucracy, also believe that the ultimate power in the United States resides with the people . . . with people like our members.

I will close with one question: if this Treaty is basically good for the United States, why does the Administration have to make such an effort to prove to Americans that it is in our national interest? Those of you in the Senate must know what the people are thinking. You know the Legion Posts and grass roots opinion runs about 80 percent against the giveaway.

We believe this proposed Treaty will ultimately be decided by the people. We believe this is one defeat the United States can avoid. It is a loss we need not accept and you can count on The American Legion Posts to stand firm.

RESOLUTION No. 445

Committee: Foreign Relations.
Subject: "Panama Canal".

Whereas, the United States is the rightful and legal owner of the U.S. Canal Zone and the Panama Canal, having acquired this U.S. property through court tested treaties and agreements and mutually agreed upon payments to Colombia, Panama and the individual land and property owners; and

Whereas, the United States Supreme Court has ruled that the United States is legally entitled to sovereignty and ownership of the U.S. Canal Zone for the purpose of building, operating, protecting and maintaining a canal across the Isthmus; and

Whereas, the United States has lived up to its obligation under the Treaty to the letter of the law; and

Whereas, the political, economic and the military factors offer conclusive evidence that it is in the vital national interest of the United States to retain sovereignty and ownership of the U.S. Canal Zone and Canal; and

Whereas, over three-fourths of our American citizens consistently voice their opposition to any kind of "giveaway" or dilution of U.S. sovereignty over this territory; and

Whereas, the United States as leader of the free world has a moral obligation to remain fair, firm and strong when faced with political blackmail; and

Whereas, surrender of the U.S. Canal Zone would be tantamount to a major military defeat with enormous consequences for evil; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we reiterate and reaffirm our continuing and uncompromising policy in opposition to any new Treaties or Executive Agreements with Panama, relating to the U.S. owned Panama Canal and its protective frame of the U.S. Canal Zone as expressed and set out in separate resolutions adopted consecutively at each annual American Legion National Convention since the Miami Convention in 1960; and, be it further

Resolved, that we strongly urge all elected members in the U.S. Congress to oppose any new treaty with the government of Panama which: (a) in any way dilutes full U.S. sovereignty, ownership and control; (b) cedes U.S. territory or property; (c) surrenders any jurisdiction and control which would threaten the economic and security interests of the United States; and, be it further

Resolved, that The American Legion rejects the actions of the Executive agencies of the federal government in attempting to by-pass the Constitution of the United States, and we fully support Article IV, Section 3, Clause 2, of the Constitution which provides that only the Congress has the authority to dispose of U.S. Territory.

## THE CANAL TREATIES: OTHER CONSERVATIVE VIEWS AND VOICES

Mr. BAYH. Mr. President, as the Senate prepares to consider the Panama Canal Treaties, I think it is important to point out that many traditionally conservative spokesmen have expressed their approval for these pacts. Columnist William F. Buckley, Jr. and actor John Wayne have indicated their support of these treaties. I might also add that the editor of the Indianapolis News, Mr. Harvey Jacobs, wrote a column for his newspaper on August 27 discussing the disadvantages of continuing the present treaty relationship with Panama.

Mr. President, I ask unanimous consent that this material be printed in the RECORD. I think this is evidence that hard thinking Americans regardless of ideological persuasion realize that the Panama Canal Treaties serve our Nation's interest.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Indianapolis News, Aug. 27, 1977]

CHOOSING UP SIDES ON PANAMA

(By Harvey Jacobs)

Take it from a military man who spent several years in Panama that the Americans who ran the Canal were a separate enclave who looked down their noses at the Panamanians.

He said it before the Canal treaty was even a gleam in Ellsworth Bunker's eye: "Sometime we'll pay the price of segregation in Panama, too."

This man left Panama several years ago; perhaps the attitude changed after his departure. But at least one man was not proud of our "ugly American" image in that place.

Now the chickens may be coming home to roost again. The Panamanians have risen up in rebellion on several occasions and Brig. Gen. Omar Torrijos Herrera, Panama's military leader, has threatened to let loose the force of Panama's terrorists if the Senate does not ratify the treaty negotiated for the Carter administration.

It is easy to fall in line and say we are "giving the Canal away," or "we're paying Panama to take it away from us." It's also a simple analysis to say that "we built it—we'll keep it" or "the Panamanians could sell us the Brooklyn bridge."

At the other end of the axis it is interesting to learn how the Panama negotiators are "selling" the new treaty to their people. Dr. Romulo Escobar Bethancourt, chief of the team, has been as busy as President Carter and Gerald Ford trying to reassure his constituency that he didn't "sell out" his homeland. He said candidly in one address, "the treaty is good for us in some basic aspects, bad in others and ugly in others still."

He said his government was too responsible to seek a bloody confrontation with the U.S. "The massacre of the best of our youth would bring more setbacks in the development of our country" was his answer to the extremists.

The Panama government is being attacked by both leftists and nationalists for yielding to Washington the right to intervene to make the Canal "neutral" after the new treaty expires in 2000 and for "legalizing" U.S. military bases already in Panama. These bases were not authorized by the famous treaty of 1903 under which the United States received control of the Canal "in perpetuity."

Therefore, there is a significant American gain in this new treaty over what was officially granted in 1903.

That treaty has become an international eyesore, exploited to the limit by communists around the world and especially in South America. It is common knowledge that President Theodore Roosevelt directed an "insurrection" in the Isthmus of Panama against the Republic of Colombia. U.S. warships at either end of what was to become the Canal Zone blocked Colombian forces while the local fire brigade in Panama City was designated as the Army of the new Republic of Panama.

Such actions were accepted in 1903 as a logical part of the Doctrine of Manifest Destiny. But the Doctrine does not help us build friendship today in any part of the world.

Reduced to pure self-interest, the Panama Canal is not worth very much. It's too small for supertankers or aircraft carriers. The Navy used it for warships only 17 times last

year, 22 times in 1975 and 12 times in 1974. A small bomb in the hands of a terrorist could paralyze it for months. With all our power, we probably could not defend it against a determined terrorist.

What hurts most in the treaty is our pride. It is humiliating to negotiate with a terrorist, leftist dictator such as Torrijos and to dignify his regime as being sufficiently responsible to accept and operate what the American people have invested in for three-quarters of a century. It is distasteful business, too, to know that the long shadow of Fidel Castro is hovering over the table.

On the other hand, fear is not in our vocabulary—and the whole world knows this. We would gain some international stature if we demonstrated that the powerful can also be humble and truly a good neighbor. We would also blunt the most potent tool in the communist arsenal of the "hate America" campaign. The debate will go on, as it should, for there is substance in both sides of the argument.

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[From the Washington Star, Aug. 16, 1977]

THE CASE FOR THE PANAMA TREATY

(By William F. Buckley Jr.)

Panama.—There seems to be only one substantive objection to the new treaty, and that is its provenance. Lobbyists for it particularly disdain Mr. Ronald Reagan because they view his arguments as amounting to nothing more than warmed-over chauvinism. In fact his objections are shared by critics whose turn of mind is not that of, say, the Veterans of Foreign Wars. The distinguished Mr. Herman Phleger, legal adviser to the Department of State under President Eisenhower, and architect of the far-seeing, far-reaching Antarctic Treaty, heatedly denounces the new Panama treaty—on the same ground as Reagan, namely: The United States negotiated under duress.

The other arguments against revising the treaty are frail. It is conceded by our military that the Panama Canal is simply not defensible against sabotage or missile-bombing. Protecting it against sabotage would take Panamanian cooperation and even with it, a saboteur with an explosive in a cargo vessel could put the Canal out of action for a while.

Guarding sea and air approaches to the Canal is the only defense, if there is one at all. This we have done, this the Panamanian government is prepared in a separate protocol to charge us to continue to do; and this we can do under our own initiative after the turn of the century when the Canal is turned over fully to the Panamanians.

Respecting the economic point, the Panamanians undertake to guarantee passage to all shipping at nondiscriminatory rates. As to the subsidy, we commit ourselves to a flat 50 million dollars rental, which is reasonable, plus an unspecified jolt of economic aid to the new operators—which is not unreasonable.

Now to the Reagan-Phleger position: One's instinct is to resent bargaining under duress. Especially so in the current situation inasmuch as the Panamanians, rather than merely asking the United States kindly to reconsider arrangements entered into in 1903 with less than a scrupulous regard for the presumptions of nationhood, launched a sloppy, eristic campaign to discredit the plain fact that the United States exercises sovereign rights over the Panamanian Zone.

But the point (I have stressed it before) is that it is becoming to a mature and self-confident nation to waive, where it is appropriate to do so, such formal considerations. Besides, we can hardly be impatient with rioting youth in the fever swamps of Panama considering the number of rioting youth we indulged in the fever swamps of Berkeley and Columbia. Even if we grant (as I do), that our title to the Panama Canal is morally and historically secure, we should not fail to understand Panamanian resentment. Even if we had in our hand a record that showed that every Panamanian in 1903 had voted to grant the U.S. in perpetuity the rights we have enjoyed in the area, still there is the shifting perspective between what was permissible and even welcome in 1903, and what is permissible and welcome in 1977.

It is fashionable beyond the limits of common sense to deplore the colonialism of ages past. My own notion is that colonialism was far preferable to much that now goes on. But our colonial obligations in Panama haven't done very much for the people there. They live, for the most part unhappily, under a dictator who deals with dissidents by imprisoning them, exiling them, and confiscating their property. We do not even have the excuse, in Panama, that we have succeeded in keeping such as Torrijos from coming to power. No, we concern ourselves only with the Canal Zone.

But now that the military inform us that our presence in the zone is unnecessary to such security as is achievable, the reasons for staying reduce merely to the question: Are we going to satisfy our pride by rejecting anti-historical Panamanian demands?

That would not appear to make sense. It is as much United States policy to avoid involving itself unnecessarily in the affairs of other countries as at the turn of the century it was American policy to involve ourselves, in Wilsonian exurberance, in these matters. The Canal's military and economic importance to us is slight; its operation is a net economic drain; we have retained the right to deploy our military in such a way as to discharge responsibilities of primary interest to our Latin American neighbors. We should be large enough, as we were in the Philippines, to walk out, with true, self-confidence.

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STATEMENT REGARDING PANAMA CANAL TREATY

(By John Wayne)

My interest in Panama goes back to the 40's. I have friends on both sides of their political spectrum. As a matter of fact, my first introduction to the Panamanian situation was in the 30's when Harmodio Arias was president. He was probably the best liked figure in all of South America and one of the very few presidents who has ever completed a term up to and since that time. His wife and his son Tito, then about 12 years old, visited me in California. Another son Tony was Godfather to one of my daughters. I am only going into these personal things to show you that I have had reasons to give attention to our relationships down there.

I have followed the Panamanian situation since the time the State Department insured us losing good relationships with Panama by changing their policy and charging extremely high prices for tuition for the children of several Panamanian families to go to Canal Zone schools. These families were continually involved in the leadership and administration in Panama. I think it would have been quite obvious with their children attending our schools that they would have our point of view. I wrote a letter to our Administration at that time to apprise them of this situation. Nothing was done.

You say that it is a blow to you to learn from the press that I favor the surrender of the Panama Canal. I certainly did not. I was appalled when General Eisenhower did just that and gave the sovereignty of the Canal away by allowing the Panamanian flag to fly there; but at that time, neither Congress, nor the press, nor the conservatives uttered any kind of cry. I did, but it was a voice in the wilderness.

In checking to find the reason for President Eisenhower's actions, I found out that although we had the rights to the ownership and jurisdiction of the Canal that Panama had not surrendered sovereignty of same. I also found out that the United States in the Arias-Roosevelt Treaty of 1936, ratified by our Congress in 1939, recognized the sovereignty of Panama in the Canal Zone as it was originally stated in the 1903 agreement.

Under negotiations during the Kennedy Administration, it was further agreed that any place within the civil area that the American flag flew, there must be a Panamanian flag raised.

Our people in the Zone tried to avoid this by removing flag poles. This started irrational actions by both sides. During those student riots which took place in 1964, our then president, Lyndon B. Johnson told the world that there would be a gradual return of the Canal to Panamanian possession. There were still no outcries from the people who are now complaining, but the above acts plus common decency to the dignity of Panama demanded a re-evaluation of our Treaty.

Now, let's take the Treaty for what it is. We do not give up one active military installation for the next quarter of a century. We do transfer to Panama in the civil Canal area such governmental activities as police and fire protection, civil administration, post offices, courts, customs, garbage collection, and maintenance of certain areas which are not necessary to manage the Canal. The Canal will continue to be run by an American agency. The Board of Directors of that entity will be comprised of nine members—five members of the Board, American—and four Panamanians who will be selected by the United States from a list proposed by Panama. This Board of Directors will not have any authority on our military bases which we will have there for a quarter of a century to insure this Treaty.

The Treaty insures all American citizens working in the Canal their continuing jobs to retirement and the continued uses of their rented homes at the present rate which averages around $150 per month including all their utilities, garbage collection, sewerage, upkeep of the grounds and maintenance including gardening lawns and painting of buildings. This is guaranteed to each until retirement or completion of their contracts.

When the Canal Company transfers these responsibilities to Panama, they will transfer $10,000,000 a year of the toll charges to take care of them. I doubt if this will cover the costs. So does our government. Therefore, this United States Canal Company Agency which will still be running the Canal for the next 20 years will be instructed to raise the toll charges 30 cents per ton or about 1/100 of a cent and a half per pound to be given to Panama to cover such contingencies as inflation and to insure the above responsibilities plus rental for the 120,000 acres which these United States will continue to hold for its military installations and also the use of a 4,000 square kilometer water shed as a water reservoir to take care of our civil and military needs in the area. This added toll charge could amount to $40,000,000 in the years to come; but not one cent of it will come out of our pockets.

None of this will cost the American taxpayer one cent. We will not be required to pay $1 to Panama when this Treaty is put into effect.

I explained to the press when I was interrogated that I am only one of 200,000,000 private citizens of the United States and that I am not presuming to establish our foreign policy. I suggested that perhaps the facts as I have presented them to you might be put in a more enlightening manner to our citizens.

Regarding Communism, quite obviously, there are some Communists in General Torrijos' administration as there have been and probably still are in ours. Back in the days

of McCarthy, it was proven that a great number of people in our government were Communists. For his high-handed manner with the use of the Committee, he was censored; but the truth of his findings were never questioned.

There will always be accusations and counter-accusations in this area. General Torrijos has never followed the Marxist line. Even in his speech when he visited Cuba, he stated that Castro had insured schooling and developed a system of feeding his people but at a high social cost. Because of this he stated that what was aspirin for Cuba was not necessarily the right medicine for Panama which is putting it about as plainly as possible when you are visiting in a foreign country that you are not agreeing with their methods.

Such rumors and accusations mushroom to a degree that it is hard for anyone to defend themselves. General Torrijos' government has not followed the Marxist line. He does have his Escobar Bethancourt as we have our Andrew Young, neither of whom were elected by either populus. A quarter of a century from now—when and if this agreement is carried out to the letter of the law—and we decide that it is proper to remove military installations, Escobar Bethancourt will be an old and forgotten character; and Young will probably be relegated to some posh job in our civil service from which he cannot be fired or taken care of by some liberal foundation as was Hiss.

I hope that the pragmatic view that I have of this situation is understandable. I have carefully studied the Treaty, and I support it based on my belief that America looks always to the future and that our people have demonstrated qualities of justice and reason for 200 years. That attitude has made our country a great Nation. The new Treaty modernizes an outmoded relation with a friendly and hospitable country. It also solves an international question with our other Latin American neighbors, and finally the Treaty protects and legitimates fundamental interests and desires of our Country.

## ADVANCED MANNED PENETRATING BOMBER STUDY, NOVEMBER 1977

Mr. BARTLETT. Mr. President, the original Senate version of this supplemental defense authorization bill contained an authorization of $5 million to fund the study of the role of manned penetrating bombers in our Nation's strategic forces after the aging B–52 bombers are retired. That study would also have examined the various means by which a replacement for the B–52 could be obtained.

With respect to manned bombers, current plans keep the B–1 bomber in the research and development phase, ready to go into production if the President should change his mind about the B–1 in the next 2 years. Today, the Congress is also considering an experimental stretch of the FB–111, the so-called FB–111H, to see if that aircraft might serve as a penetrating bomber after the B–52's are no longer able to survive in Soviet airspace. Some people have advocated a new bomber more advanced than the B–1, a B–2, and others have suggested that the United States will never again need a manned penetrating bomber.

The amendment, requiring an advanced manned penetrating bomber study with language worked out among the members of the Armed Services Committee, was carefully designed not to prejudice the outcome of this study. Nevertheless, the study was deleted in conference. Eventually however, the defense establishment will have to come to grips with the question of whether or not to retain a capability to modernize our penetrating bomber force.

No fact has emerged more clearly from testimony before the Research and Development Subcommittee than that of the superiority of a "mixed force" of penetrating bombers and stand-off cruise missile launchers over a "pure force" of either penetrating bombers or cruise missile carriers. Bombers and cruise missiles create different problems for enemy air defenses and work well together in overcoming those defenses. While changes in tactics and technology might someday dictate that a "pure force" is more cost effective than a "mixed force", more likely such changes will simply alter the relative importance of penetrating bombers and cruise missiles within a mixed force.

Therefore, the United States must insure that concepts exist for maintaining a mixed force of manned bombers to complement cruise missile launchers after the B–52's are no longer able to penetrate successfully. The study proposed in the original Senate bill would have investigated the means by which the United States could retain a force of manned penetrating bombers into the 21st century, if that should prove necessary. In short, the study was designed to insure that the bomber leg of the triad will not become a pure cruise missile force simply because no alternatives have been developed. The $5 million authorized—a normal expenditure for a major study—matched the $5 million originally recommended by the Senate Armed Services Committee for study of a follow-on, wide-body cruise missile carrier. The continuous development of advanced bomber concepts will provide a focal point for the continued development of related technologies such as electronic countermeasures, offensive avionics, aerodynamics, fuels, navigation, communications, and the like. Also, advanced bomber studies would provide a hedge against Soviet breakthroughs in advanced aeronautics or in air defenses.

In a mixed force, however, the importance of the manned bomber is determined not only by its own ability to penetrate, but also by that of the cruise missile. And evidence is growing that the first generation cruise missiles are less ready and more vulnerable than previously thought. Furthermore, severe restrictions on the range of cruise missiles and the number of launchers seem eminent at the SALT talks. If the United States intends to permit these restrictions on cruise missiles, then it must remain in a position to upgrade its manned penetrating bomber force. That was the purpose of the advanced manned penetrating bomber study.

## CONCERN OVER SOUTH AFRICA—A CASE OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, I am deeply upset over the situation in South Africa. Specifically, I am upset by the infringement on human rights as evidenced by the closing of major black newspapers and the arrest of black leaders. The best known example of this is the banning of the major black newspaper, the World, and the arrest of its editor, Percy Qoboza.

South Africa is a country of distrust and hatred. A first step toward solving these problems is an exchange of ideas and perceptions between peoples.

Yet, the South African Government has clearly shown that it feels that suppression of human rights rather than discussion and compromise will "make the problem go away." By taking away black peoples' ability to vocalize their concerns, the South African Nation's problems are not solved, only aggravated.

Reassuringly, President Carter has protested the present situation in South Africa. The South African Government has responded by calling the protest "irrelevant."

What can the Senate do to support the President's stance on human rights? Ratifying the Genocide Treaty would be one important step. It is true that the Genocide Treaty could do nothing directly to correct the situation in South Africa. Yet, Senate ratification of this treaty would provide moral consistency to the U.S. stance on human rights. It is time for the Senate to make this important contribution to the support of human rights.

On October 21, 1977, the New York Times reprinted excerpts from a paper by Percy Qoboza, the editor of the World and frequently cited as a leader and spokesman of black views, which eloquently express Mr. Qoboza's view of his people's role in South Africa. I am impressed by Mr. Qoboza's views of the South African situation and his outlining of possible solutions. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 21, 1977]

IN SOUTH AFRICA, BLACK MISERY . . .

(By Percy Qoboza)

I have not to date come across any responsible black leader who has advanced the theory that whites are expendable and must be thrown into the sea. We have, on the contrary, over the years emphasized that whites are South Africans and have the right to exist in a common fatherland; and that all of us, around a conference table, must devise a formula acceptable for future coexistence.

Our country is full of noble black men who have been silenced under the security laws for advancing just these types of ideas. Many are called Communists simply because they believe in the dignity of man. Many have been labeled agitators simply because they call for a society where merit and not color is the criterior by which man must be judged.

Indeed, all those with whom the Government should be talking in the black community have been subjected to punitive actions. The danger is that the time may well come when the authorities are forced to talk to somebody, and there will be nobody to talk to. When that happens, our troubles will indeed have started.

Against this background then, I can but express concern and alarm that present dis-

cussions about the future of the country which are going on in Government, academic and business circles do not involve black people. We find it more expedient and easier to go on expeditions to Vienna, London and Washington, at considerable national cost, when we could have a more dramatic and effective impact by going to Soweto.

What we must ultimately realize is that all those trips in which we try to sell unsellable policies are an exercise in futility unless the backing of black people has been obtained.

Our isolation will continue unabated until the world is convinced that black and white South Africans are on the brink of a new dawn of brotherhood and are seriously engaged in the formulation of a new and dynamic political dispensation.

We must come to accept that we are a house tragically divided at a time when divisions of this nature are a luxury we cannot afford in the dangerous world we live in. No one can afford not to be distressed when we see on the one side white South Africans regarding Ambassador Andrew Young as an enemy, and on the other side black South Africans welcoming him as a friend. How can one take comfort in seeing white South Africans angry and disgusted at attacks on South Africa at the United Nations, while the blacks of the same country rejoice at the event?

One of the greatest cries in South Africa today is directed at overseas nations, calling on them to help generate a new economic life in South Africa, to enable the country to afford its social commitments to the majority of its peoples. How can one not be distressed that this cry has become meaningless to black people, who watched as whites enjoyed an unprecedented economic boom, building luxurious houses with swimming pools, while black people were wallowing in extreme poverty and children were dying in the hundreds from malnutrition and the dreaded kwashiorkor [a nutritional disease of infants and children]?

What confidence have you generated in my people with regard to the free-enterprise system, when that system stands for white privilege and black denigration?

These, and more, are the types of questions urban blacks are preoccupied with. We are now told that we must develop patriotism. But how can one develop a patriotic black population in a country that denies blacks even the God-given right of owning their own properties in urban areas?

I mean, places they can call their own—the kind of thing that makes a man feel he has a stake in his country, and the kind of thing that has inspired men throughout history to take up arms and defend with their lives what is legitimately theirs.

Black people around our urban areas have nothing they can call theirs, and they have nothing to defend with their lives. What type of patriotism are we speaking about?

South Africans speak very fondly about how they died for their country defending the highest principles of democracy in World War II. What they never tell you is that fighting along with them were hundreds of blacks who laid down their lives to eradicate—once and for all—Hitler's brand of racism.

I myself had two uncles who never returned. They had paid the supreme price in destroying racism once and for all, and their sacrifices could have been in vain because I, their nephew, became the victim of a new brand of racism. What kind of patriotism are people asking of us?

Let me hasten to assure you that our people love South Africa. The last thing they would like to see is this beautiful country which the Almighty has given to us, with the resources to help us provide for the happiness of all its peoples, torn down by strife and confrontation.

This is why we developed patience over the years, with the hope that people will realize the folly of their ways. In the face of extreme indignity, we could still afford to smile and extend our hand of friendship, which has been rejected. History will one day record that the human endurance displayed by blacks in South Africa was unprecedented. But the good will that led the late General Smuts to conclude that we have the patience of a donkey is unfortunately beginning to be filtered away.

Yet I still have faith that we have not reached the point of no return. I am optimistic, and convinced that we can still turn frustration into hope. We can still douse the flames of anger and bitterness that raged through Soweto and other parts of South Africa, and replace them with genuine brotherhood and understanding.

It is never too late to do the right thing. It is never too late to transform the might of South Africa into the might of justice and dignity for all. It is never too late to build a South Africa where people of all races can live together in mutual respect. Respect and tolerance.

We have the power and the resources to transform this unjust and racist society into a just and nonracist one. There is is no short cut to achieving this. It is not going to be easy. It is not going to be easy to dismantle 300 years of white domination and replace it with South African domination. A domination that will know no color.

We will not have begun doing this if we are still occupied with the exercise of identifying those things that divide us, instead of emphasizing those things that unite us. I keep hearing people hammering away at the cultural differences that exist between black and white, and I want to ask you what cultural differences you have detected in me that make me distinctly different from you, and that merit me to be caged in the ghettos of South Africa.

People who keep on repeating these things are merely compounding our problems, and eventually they will have to stand the harsh judgment of history. Eventually they will have to face the tragic accusing finger as the men who let down South Africa in its hour of need.

Finally, I will not lie to you that I have answers to South Africa's problems, because I do not. But what I do know is that if we together can sit around that conference table, we will find the answers to the problems facing our nation today. Together we built South Africa to what it is today, and together we have the moral responsibility to insure that it remains intact, with the possibility of making this an even greater nation.

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## PANAMA CANAL TREATIES COMMENTARY

Mr. THURMOND. Mr. President, the U.S. Industrial Council recently asked Mr. Egon Tausch, a former Army officer and teacher at West Point, to prepare a firsthand analysis of the Panama Canal situation.

Mr. Tausch visited Panama and has prepared an excellent report which should be of interest to all Members of the Senate. In his report, he pays particular attention to the issue of defending the canal and the unique problems of the Canal Zone residents.

Mr. President, I ask unanimous consent that a column on this subject by the distinguished author, Anthony Harrigan, and a short version of the report as published by the U.S. Industrial Council be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE OF THE CANAL

(By Anthony Harrigan)

One of the principal arguments used by supporters of the Panama Canal treaties is that the United States will find itself embroiled in a guerrilla war if the canal and its zone aren't surrendered to Panama. The truth is that the tactical advantages are with the United States if it keeps the entire zone in American hands.

This point is made in a hard-hitting, firsthand report from Panama written by Egon Tausch, a writer who served with distinction as an Army officer in Vietnam and later taught at West Point.

In a study report prepared for the United States Industrial Council, Tausch says:

"As long as the Zone is controlled by the U.S. few military men fear Panamanian guerrillas. Although large parts of Panama are jungle, the population is concentrated in the two major cities. Panama has never fought a war. The Guardia Nacional, which serves as both the army and the police of Panama, is 8,000 strong, but almost all of it is stationed in downtown Panama City, for political uses only. The Guardia doesn't like the jungle. The most committed fighters Gen. Torrijos has are the thousands of leftist professional students, and these do better in romantic street demonstrations than in individual acts of sabotage or concerted struggles. The 'martyrs' of the famous riots of 1964 were killed when a department store they were looting caved in."

The Tausch report continues:

"Panamanians could be trained to fight—the U.S. Army has been trying to do this in jungle warfare schools in the Zone for years—but the probability, if war broke out, would be that Cubans would do all the fighting. This is true whether the treaties are rejected, or are ratified with U.S. retention of military bases but without the Zone.

"The analogy with Vietnam is valid, but not the way treaty supporters think it is.

"The crippling difficulty faced by the U.S. military in Vietnam was that geographic territory was irrelevant in that war. Fortifying towns or hilltops, though easy, was pointless; Vietnam remained a war of movement because the U.S. and Saigon forces had to maintain the offensive tactically in order to maintain political control. In the few instances when American installations were assaulted directly, the Vietcong and North Vietnamese attackers were slaughtered.

"The Canal Zone, on the other hand, is only about fifty miles long and ten miles wide. Perimeters can be established and fortified. There are no foreign 'hearts and minds' to be won; only Americans live there. There are no Panamanian villages within the Zone to worry about, nor any reason why the frontier should not be cleared of vegetation for fields of fire. Gen. Torrijos knows all of this. Difficulties would arise if and when the Zone was abandoned before the Canal was surrendered, and this is precisely what the new treaties propose to do.

"Tausch notes in his report that the idea that the Canal itself, within an American Zone, is vulnerable to sabotage by dissidents or guerrillas is based on ignorance of the physical structure of the Canal and on underestimation of 1910 technology. 'The Canal,' he explains, 'is not a complex, delicate mechanism. It consists of two lakes, three sets of locks in two channels, and a few locomotives. The lakes are filled by rain run-off. The locks are merely chambers built of solid concrete, with holes in the bottom through which the water passes by gravity when the valves are open. No pumps are used; each chamber is adjusted by the release of water out of the chamber above it or into the one below. The gates are steel, pivoting on posts, and locking under the pressure of the water.

Each chamber has duplicate gates for emergencies. Damaged sets can be removed by the floating crane, the largest in the world, without interrupting Canal operation. The machine parts are simple, solid steel and brass, and every piece is manufactured in workshops on the banks'."

If the American people are acquainted with these facts, they will realize that defense of the Canal against land attack would be a simple matter. Nothing is more absurd than the notion that the Canal can be disabled by dropping a few hand grenades in a lock.

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REPORT FROM PANAMA: THE AMERICANS WHO OPERATE AMERICA'S CANAL

(By Egon Tausch)

(Editor's Note: The author of this article is an author and attorney who spent his formative years in Latin America. Mr. Tausch served as an officer in Vietnam, taught at West Point, and has published in National Review and other journals. He recently visited the Panama Canal Zone to gather material for this report.)

One factor in the Panama Canal controversy which has been deliberately ignored by both the State Department and the media is the problem of the Canal Zone residents, or "Zonians."

There are about 34,000 U.S. citizens living in the zone, most of whom are directly connected with Canal operations. It is a remarkably stable population, made up for the most part of children, grandchildren, and great grandchildren of Canal workers. Many have married Panamanians and others are naturalized U.S. citizens themselves. There is no labor-management dissension, unemployment, welfare, race issue, or crime problem in the Zone.

The Zone is not a duty assignment for its residents; it is their home which they have quite rightly believed would always be part of the United States. For obvious reasons, the State Department would like to forget about them.

Much has been made of the fact that the Canal will be turned over to Panama gradually; the Panamanians will not have full control until the year 2000. This has obscured the fact that the Zone itself, as distinct from the Canal, will be turned over within 30 days after the treaty is ratified. The Zonians have lived next door to the Panamanian police state and do not relish the thought of living under it. Their attitudes must be taken into consideration before ratifying the treaties: Any timetable for the transition to Panamanian control of the Canal depends entirely upon the willingness of Zonian employees to stay and work after the Zone is under the jurisdiction of the Guardia Nacional. If they won't, the Canal will close down quickly and disastrously, regardless of any agreements to the contrary that U.S. and Panamanian negotiators might have made.

The Zonians have no intention of being ignored. They were the victims of the 1964 riots, sporadic violent incidents since then, including the bombings of American automobiles in November, 1976, and harassment by the Panamanian Guardia Nacional and secret police.

Now they find themselves an embarrassment to the U.S. Embassy in Panama, which has refused to permit the rights of these American citizens to strain relations with the Panamanian dictatorship.

"When we go into Panama to use their airport—we aren't allowed to use our own military field anymore—and get detained by the *Guardia*, we're all alone," says Mrs. James Fulton, president of the Pacific Civic Council in the Zone. Patrolman William Drummond adds, "If we get into any kind of trouble, we now know better than to call on our own embassy. We call the British. They don't have to pretend we don't exist."

Drummond, president of the Police Union and legislative chairman of the Central Labor Union and Metal Trades Council, had his two automobiles bombed in the terrorist attacks of 1976. The incident was attributed to the G–2, the intelligence arm of the Panamanian secret police. The U.S. Embassy in Panama speculated publicly that Drummond might have bombed his own cars to gain sympathy for the plight of the Zonians, a charge proven false when the other bombs went off and the terrorist notes were discovered. The Embassy never apologized to Drummond.

On February 11, 1977, Drummond was arrested by the G–2 at the Panama airport when he was on his way to testify in Washington on union business. He was detained and questioned in downtown Panama City for three hours. His release was obtained only because the arrest was reported by the protocol officer from the embassy, who had happened to witness it. The Ambassador decided not to make a point of such arrests for fear of endangering the treaties.

Shortly before the negotiators completed the treaties they authorized Gov. H. R. Parfitt of the Canal Zone to release a list of fifteen "assurances" to U.S. citizens in the Zone—points that were to be in any proposed treaty.

Among them was the following assurance concerning criminal justice: "In connection with offenses arising from acts of omission punishable under the laws of the Republic of Panama, United States Citizen employees and their dependents will be entitled to specific charges, cross-examination of witnesses and legal representation of choice.

Also, the State Department announced, a status-of-forces agreement would be included in the treaty, which would permit U.S. civilians to be tried by their own courts as is done by the military in other foreign countries. These assurances were repeated by every level of government and were even incorporated into a Department of Defense directive to the military.

In reality, the State Department negotiators were aware that Torrijos had consistently refused to consider any such assurances. These clauses had already been omitted from the early draft treaty at Torrijos' insistence.

The final treaty gives all authority over criminal justice—procedural and substantive, crimes of commission and crimes of omission—directly to Torrijos, with no safeguards for U.S. citizens, other than the right to serve their sentences in America if Panama agrees at a later date.

In the face of his repeated failure to get Panamanian agreement on these points, Ambassador Bunker continues to push the treaties by promising that a status-of-forces agreement will be forthcoming, somehow.

The residents of the Canal Zone feel a personal sense of betrayal by the U.S. government. They can vote only in presidential general elections, so their interests are centered on one issue—foreign policy. Secretary of State Henry Kissinger was profoundly disliked in the Zone, and the last television debate between Carter and Ford led the Zonians to believe that Dr. Kissinger's policies would be reversed by a Democratic administration. The Zone went solidly for Jimmy Carter. Now the President's representatives encounter only hurt hostility from the residents.

The Zonians have held rallies protesting the proposed treaties. More than 2,600 appeared at the last one before the treaties were signed. If any Zonians favor the treaties, they have yet to speak out. Despite their expert knowledge of Canal operations and of conditions in the Zone, the residents have not been interviewed by the major U.S. news media. The Canal Public Information Office complains that it gives a representative list of Zonians to every reporter who calls on the office, but none bother to visit the locals.

Some of the American reporters have resorted to denouncing the Zonians' stilt bungalows and commissaries-without-discounts as "unfair" luxurious living. Unlike other Americans, the Zonians are expected by the press to live a Spartan existence, in return for the privilege of working on the Canal.

In actuality, the architecture and scenery of the Zone differs from that of Panama only in that it is kept clean and in good repair. The attack on Zonians is reflected in Time Magazine's report of a Canal pilot who "refuses to work for a dictator." The quote is preceded by the magazine's categorical opinion: "The Zonians' basic objections to the treaty range from chauvinistic to sentimental to mercenary."

State Department officials counter Zonian opposition to the treaties by calling the U.S. citizens "colonialists" or "racists," a charge which labor leader Drummond refers to as the last ditch effort of desperate bureaucrats. He like many Zonians, is married to a Panamanian national.

Speculation about the evacuation of the Zone continues, without evidence of U.S. concern for keeping the Canal going.

Federal District Clerk Doris McClellan feels protective of her courthouse in the Zone. The daughter of Sen. John McClellan (D-Ark.) knows her way around Washington. "What right," she asks, "does the State Department have to abolish or give a federal court over to a foreign jurisdiction? We're under the Justice Department, not Foggy Bottom!" A Southern lady of the traditional mold, she gets angry when she envisions the future of her beloved courthouse under the rule of Gen. Torrijos and his henchmen of the Guardia. Indeed, the general will have little use for a court of justice within a governmental system which recognizes no civil rights whatever.

Miss McClellan is taking no chances with the historical honesty of the future occupiers of the Zone—she is sending all the deed records which prove ownership of the land, north for safekeeping.

Washington seems in no hurry to appoint a new federal judge for the Canal, making do with visiting judges in an obvious ploy to prepare for the turnover in case the treaties are ratified.

"What do they think they'll do with us? Send us home? Where is our home, if not here?" asked William Benny, a control house operator on the Canal. He and his wife were born in the Zone, and have no ties with other parts of the U.S. Benny will have to make his own plans for his family, and they won't be based on a timetable prepared in Washington.

The Governor of the Canal Zone and President of the Panama Canal Company is an Army general on leave of absence. The Zone Government and the Canal Company both operate under the general supervision of the Secretary of the Army. After completing his term, Gov. Parfitt will return to active duty, with a promotion if he hasn't made waves. He is prevented by his office from voicing Zonian complaints about the State Department or taking any position in regard to the proposed treaties. Nevertheless, his testimony before Congress during earlier hearings must have been unwelcome to those among his superiors who favor a gradual Panamanian takeover of the Canal.

Gov. Parfitt is painfully aware that the Canal must be closed if there are not enough U. S. employees who are willing to remain at a temporary job in a place that is no longer to be their home, under a repressive foreign regime, and with little or no support from their own embassy. The Governor testified that fear of the future was affecting the work force even before the treaty agreement was reached. Since the 1974 Kissinger announcement of the Joint Statement of Principles, resignations have increased by 60%.

Although the number is not of such magni-

tude as to cause great concern, what we are concerned about is the trend—the fact that this could snowball and ultimately seriously affect our ability to perform the Canal's mission . . . Prospective employees are wary in seeking employment with the Panama Canal when doubt exists as to the future security and tenure of their positions and the conditions which might prevail under a new treaty.

Even if other Americans were paid enough to induce them to move to Panama, they would require extensive training to become familiar with the 1910 technology of the Canal, simple as it is. And they would have to be integrated slowly into the regular workforce. If the treaties are ratified, there won't be a regular workforce to ease them in to.

The U. S. Civic Councils, organizations of Canal Zone community representatives, polled 285 U. S. citizens about their plans. 62.8% said that they would not consider remaining if the Zone is given to Panama. "Many of our people now tell us that 'the day that the Canal Zone Police go, we go,' and also, more alarmingly, 'when the U. S. workers see the day getting closer that jurisdiction will be handed to Panama, you can expect to see the Canal shut down.' "

The only labor trouble that the Canal ever faced was a "sick-out" in March of 1976, which was a response to rumors of a new Canal treaty. As the Civic Councils reported, "Morale at that time was extremely low; this year we have to say honestly that our people are so demoralized that they are ready to give up and quit—a shutdown of the Canal, if it occurs, will not happen over a labor issue. It will result from apprehensive employees, who in their fear for their physical security, will simply leave their jobsites, go home and pack their suitcases . . ."

"The trouble with the State Department," concludes Pat Fulton of the Pacific Civic Council, "is that they want a new treaty as a 'symbol'. But the Canal is a thing!" Ideology and nationalism will not change the fact that if the Americans leave, the Canal will be dependent on Panamanian mechanical skills.

The Canal mechanism is simple, but it requires upkeep. There is no regular maintenance system in Panama. Pride is based on acquisition; maintenance is work performed for no visible result. The elaborate daily lake dredging and cleaning and lubricating procedures employed on the Canal are objects of amazement, and sometimes derision, among Panamanian visitors.

For years the United States has given preference in hiring, training, and promotion to Panamanian nationals. At the present time only two of the ship pilots are Panamanians, and not many others of that nationality have risen above menial labor positions. Far fewer than the quota provided for by the program apply for training; fewer still complete it.

Recently the United States acceded to Panamanian requests and gave up control of Bayano Dam, a source of energy and a necessary control valve on the lake which supplies the locks with water. The daily inspections of the dam ceased immediately after Panama took possession. Within a few months the dam became inoperable. Torrijos could find no Panamanians with the knowledge and skills to repair it and was forced to fly in a team of Yugoslavian engineers and mechanics. Since the repair of the dam, new cracks have appeared.

Panama has never conquered the problems of mechanical and administrative efficiency. The garbage collection system in Panama is practically nonexistent; heaps of refuse rot in the tropical sun. Modern buildings have no hot water systems built in. Torrijos bought a new fleet of buses from Germany, but made no arrangements for mechanics or replacement parts. A year later, less than one-third of the buses were still running; the others were cannibalized for their parts and the bodies left abandoned along the streets.

The treaty negotiators could not entirely ignore the possibility of Zonian flight and the lack of skilled Panamanians to replace the American employees.

Consequently, the U.S. Embassy in Panama contracted the services of Mr. John L. Jackle to do a study of the impact of a new treaty on Canal Zone residents and how they might be convinced of its benefits. The political branch of the embassy worked with Mr. Jackle. The final report indicates that the methods of the Panamanian dictatorship are not completely alien to the State Department: "a lot of good press would be essential for success: in this situation we would make good use of the controlled press situation on the Isthmus. If it does not work, no propaganda will sell it. But it can be given at least an initial breath of promise through skillful manipulations of the available media."

Later the report adds, ". . . we would have to work closely with the Government of Panama to insure that their share of the participation would be handled with our goals in mind. We would not want a Government of Panama speaker who is going to rant about how glorious Panama's demands are; we would want someone who could communicate on a low-key level and who would be very reassuring."

Even such sophisticated Madison Avenue techniques might not work with Bill McConaughy, Senior Control House Operator and a highly respected mechanic. McConaughy has worked on the Canal all his adult life, as have his two brothers, their father, their grandfather, and their great-grandfather, who helped build the Canal and whose Theodore Roosevelt Medal the descendants treasure. Bill's pride in the Canal is second only to his pride in America for having created it.

"Short of working on the Moonshot there's nothing I'd be prouder to do than what I'm doing here. We all feel that way, and it doesn't wear off with time." After thinking a moment, he adds, slowly, "As long as the Canal is American."

## S. 794, JUVENILE DELINQUENCY IN THE SCHOOLS ACT

Mr. ANDERSON. Mr. President, S. 794, the Juvenile Delinquency in the Schools Act, is a bill of significance which should be given prompt, favorable attention.

Since becoming a cosponsor of this measure, I have received considerable response from teachers, principals, and administrators urging its passage.

I must say, however, that some principals and school administrators have taken exception to a newspaper article on school violence which I submitted to the RECORD in August.

The article describes the problem of teachers being harassed and assaulted by juvenile delinquents in the classroom. The newspaper piece indicates that in some instances teachers have had less than enthusiastic support from principals in handling these matters.

I have been assured by many of our Minnesota school principals that they are very committed to protecting teachers in the classroom and that they are most willing to back up their teachers when it comes to administering appropriate discipline.

Given the support which many of our Minnesota school principals have shown for S. 794, I believe them. I look forward to their help when the bill becomes law.

This measure envisions a cooperative effort among teachers, principals, and administrators. It in no way is intended as a rebuke to either principals or administrators without whose active assistance the program established by S. 794 cannot work.

## THE NEED TO FREE FREE ENTERPRISE

Mr. TOWER. Mr. President, if the free enterprise system is to survive the onslaughter of overregulation, attacks on the bigness of business and the inexorable movement toward central planning, the business community must improve our Nation's understanding of economics and the workings of the free enterprise system. This is the prescription given in a thought-provoking article by Robert Cizik, chief executive officer of Cooper Industries of Houston, Tex. in an article appearing in the October 1977 issue of Finance magazine.

In spite of the fact that our economic system has brought the American people the highest standard of living in the world, the current trend is to attack bigness in business as an evil in itself. This overlooks the fact that the purpose of an enterprise is to grow, according to Mr. Cizik. He points out that in our current reformist mood, we have neglected the judgment needed to legislate wisely.

The multitude of Government regulations imposed on business is now absorbing more and more of our time, our capital, and our freedom to seek new ways to satisfy our consumers demands. Laws are being proposed which would dismantle our Nation's largest industries, not because they have abused their economic power, but because they are big. This is substituting centralized planning and control for the free market mechanisms.

Although big business generally has been able to endure this legislative onslaught, small business has not and is being legislated into oblivion.

Mr. Cizik continues that the cost of the staggering regulatory onslaught is borne by big business, small business, and the general public. He gives as an example General Motors' estimate that Government regulation has cost it $3.25 billion in the 3-year period from 1974 through 1976. He cites a recent study done by the Government Accounting Office which found that regulation on airlines were costing the passengers between $1.4 and $1.8 billion a year.

Costs in Government regulation may be seen in a decline in our productivity placing us at a disadvantage in international markets. The author attributes much of the slow rise in capital investment to uneasiness created by Government interference.

Mr. Cizik recognizes that there needs to be some Government regulation to protect against the abuses of economic power. However, he cautions legislators to balance the social benefits against the cost of regulation.

Three programs are suggested to reverse this trend:

First, we need to improve our Nation's understanding of economics and the free enterprise system.

The second program is to stimulate a greater dialog between an economically literate populous and our elected representatives.

And, finally we must limit the scope of problems addressed by Government action.

Mr. President, because of the pertinency of Robert Cizik's remarks to measures now pending before this body to further regulate the free enterprise system, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEED TO FREE FREE ENTERPRISE

(By Robert Cizik)

H. L. Mencken once said that the businessman "is the only man above the hangman and the scavenger who is forever apologizing for his occupation."

This is an extraordinary observation in view of the American businessman's role in developing the most humane and affluent society in history. Nevertheless, it is true that we businessmen are constantly on the defensive, though not to the degree Mencken opined. The animosity and distrust that we so often sense, however, have recently begun to transcend the personal and to threaten the entire fabric of our free enterprise system.

I think there is a measure of hope in this development. The defense of an idea always inspires the most passionate and popular commitment, and I think it is time that the businessman educated the public about what is at stake and called on the support of his natural allies—the beneficiaries of our economic system.

Our economic system, call it what you will, whether free enterprise, market economy, competitive economy, or profit economy is, without question, the most successful in history. We have produced for our citizens the highest standard of living the world has ever known. It is a system that has enabled thirteen independent colonies, 90 per cent of whose people were in poverty in 1776, to become the greatest industrial and agricultural power in the world. Consider for a moment the conceit of a country that now defines poverty at a level of income that is higher than the average income level in the world's second most powerful nation.

We have made technological advances undreamed of by our founding fathers. The growth of our medical knowledge is evidenced by our life expectancy, which has increased from an average of 35 years in 1800 to over 70 years today. Our social progress includes the reduction of our average workweek from 72 hours in 1840 to less than 40 hours now. In education, science, and art, our achievements have been truly remarkable.

During much of our early development, the mood of our country was one of optimism and great expectations. This mood was natural at a time when we were still learning the extent of our abilities and the magnitude of our wealth, when growth was evident in all our undertakings, and when we lacked much of the knowledge and sophistication which we have today—in short, when we as a nation were young and the future was ours to shape.

Today, we are in a different stage of development. As a nation we appear to be taking the posture of "disillusioned youth." We are rejecting out of hand our established ways and rushing pell mell to correct the perceived evils of our society. In this exercise, we have the classic advantage of the young reformer—enormous energy to change current practice and existing custom. But we also have concurrent and equally classic disadvantages. We are impatient and often too willing to accept short-range solutions to long-range problems. At times, it appears we pursue change purely for the sake of change, with no reliable index of its ramifications. We lack the wisdom of maturity and are all too anxious to overturn institutions without replacing them with, in the words of Robert Ruark, *Something of Value*.

The current trend in our nation to seek immediate reform and instant answers is coinciding with the return of a basic American attitude—our distrust of big business. Throughout history, the American people have feared big business. We have tolerated it during brief periods when we had a job to be done which required a concentration of power. One of those jobs was the construction of our basic industries—the steel mills, railroads, and oil refineries. When these tasks were completed, we reverted to our old attitudes and established antitrust laws to protect ourselves from the abuses of concentrations of economic power.

The Second World War and the needs of the reconversion period which followed produced another hiatus in our nation's distrust of big business. That period lasted from the early 1940s to the mid 1960s. As witnessed by the oft-quoted polls, we are once again returning to our basic distrust of big business. The polls show, for example, that public confidence in major companies' management declined from 55 per cent in 1966 to 21 per cent in 1975.

The distrust which Americans feel for big business is also felt for big government. It is, in fact, a general fear of concentrations of all forms of power that emanate from bigness—economic, military, or political—because of their potential for abuse.

The current attitude that bigness in business is an inherent evil that requires legislative correction can, however, have dangerous consequences. The goal of all business is to grow. Growth is our measure of success, our measure of how well we are doing our job of providing the goods and services which consumers want and need. In the free competitive system, there are winners and losers. If growth is punishable, there is no incentive to take the very real risks necessary to produce that growth. Without the willingness to take risks, we cannot have a system of free enterprise.

Accordingly, the job of preventing possible abuses of concentrations of economic power should be viewed as one that requires a great deal of judgment and reason. Our primary concern should be to protect ourselves against possible flaws in our system without endangering the system itself. Free enterprise is now, and always has been, supported by the American people. A poll taken several years ago showed that 93 per cent of Americans expressed their willingness to make personal sacrifices, if necessary, to preserve the free enterprise system. This system includes all business, large and small.

In our current reformist mood, however, we have neglected the judgment needed to legislate wisely. We have forgotten that laws already exist to protect our country from many economic abuses. Indeed, we seem to have forgotten that it is the abuses and not the system that the laws should attack. Some lawmakers act as though they have a mandate to legislate against business, and this imagined mandate is producing a tyranny of regulation that is enormously wasteful and destructive to initiative, innovation, efficiency, and productivity.

The multitude of government regulations imposed on business is absorbing more and more of our time, our capital, and our freedom to seek new ways to satisfy our consumers' demands. Laws are being proposed which would dismantle our nation's largest industries, not because they have abused their economic power, but because they are big. More and more of our free market mechanisms are being destroyed and replaced with central planning and control.

Thus far, big business generally has been able to endure the legislative onslaught. However, the large number of smaller enterprises that have found themselves incapable of meeting the plethora of regulatory requirements and have consequently been forced to close their doors—is a poignant indication of how lofty legislative goals can go awry. While big business is condemned for its very size, the increasing degree of government intervention is permitting only the larger enterprise to survive, and one of the cornerstones, indeed the foundation, of our free enterprise system—the small business—is being legislated into oblivion.

Let me be more explicit about the degree of government regulation. In his 1977 Economic Report to Congress, former President Ford stated that there were 1,200 federal organizations alone having significant regulatory powers. Direct federal outlays for the regulatory activity are expected to reach $3.5 billion in 1977, a 21 per cent increase over the 1976 level. But the overall cost of the expanding network of regulation is staggering. Estimates range from $40 to $130 billion a year.

This cost is borne by big business, small business, and the general public. For example, General Motors estimates that government regulation has cost it $3.25 billion in the three-year period from 1974 to 1976. This does not include the cost of equipment installed in GM products to comply with federal standards or taxes or workers compensation. It also does not include, GM has noted with exasperation, the cost of "lost opportunities, misplaced priorities, and misused resources."

In addition, a recent study done by the Government Accounting Office found that regulations on airlines were costing the passenger between $1.4 and $1.8 billion a year. The American Council on Education reported in 1975 that federal regulations had increased the cost of running the nation's colleges by the equivalent of from 5 to 18 per cent of total tuition revenues; the total cost may be as much as $2 billion a year.

It is ironic how steadily and quietly government has been growing during the sporadic and clamorous debates on bigness in business. According to one expert, the size of the federal government has grown from 75 to 100 per cent faster than the private sector in the past 150 years. If the current rate continues, by the year 2000, the government will tax away about 50 per cent of GNP and employ about 25 per cent of the labor force; by 2075, the government will tax all GNP and employ everyone.

Government is now involved in every step business takes. When a company hires an employees, it must make sure it adheres to the rules of the Equal Employment Opportunity Commission and applicable state Human Rights Commissions. That employee must work and be paid under the Wage and Hour Law. If the company has a federal contract, it has to file an affirmative action program and must comply with the Davis-Bacon Act, the Walsh-Healy Act, or the Service Contract Act. The employee's work and work surroundings must be in accordance with the Federal Occupational Safety and Health Administration and various state industrial codes. If his employer offers a pension plan, it is governed by the Employee Retirement Income Security Act. (However, recent IRS figures indicate that as many as 30 per cent of the nation's 500,000 private pension plans may have been terminated because of the rigid financial and reporting requirements of this act.) And, of course, every company must act as tax collec-

tor for the employee's social security and income tax.

The product that the company makes are regulated under the Consumer Product Safety Commission, which has the power to ban them unless the company can prove that they meet the Commission's standards. While making the product, the company must satisfy the requirements of the Environmental Protection Agency. In addition, special agencies operate in selected industries, such as the Federal Communications Commission in radio and television, the Civil Aeronautics Board in airlines, and the Interstate Commerce Commission. The oil industry, from wellhead to pump, is now involved with more than 60 regulatory and licensing agencies.

There are now so many legislated restraints on effective use of capital and human resources that our international advantage in productivity is declining. The economic climate is so uneasy due to government interference that the current rise in capital investment is now about half what it has been in comparable periods of economic recovery, and some have predicted an investment shortfall of $500 billion over the next ten years. At the present rate, it is entirely likely that in our own lifetimes, we will begin to suffer serious shortages in the goods and services that we have so long taken for granted and that are a critical source of individual and national well-being.

I do not mean to suggest that there should be no government regulation of business. We have long since passed the laissez-faire principles described by Adam Smith in his book *The Wealth of Nations*. Government should, of course, take action against abuses of economic power. Many laws have already been established to protect the American people against such abuses. If a company violates the law, it should be prosecuted. If current laws are not sufficient to deal with today's problems, they should be strengthened.

I submit that reasoned judgment needs to be applied in determining how much regulation we need to have. The criterion for that judgment should be the social benefits to be derived from such regulation, balanced against its cost—not only the dollars and cents cost which must be borne by you and me today, but also the cost of the erosion of our free enterprise system which must be borne by future generations.

Overregulation, attacks on the bigness of business, and the inexorable movement toward central planning are trends which must be reversed if free enterprise is to survive. Many programs could be suggested which would help to reverse these trends. I would like to suggest three.

First of all, we need to improve our nation's understanding of economics and the free enterprise system. That need was expressed very well by William Simon:

"Today we have reached a point where, although the free enterprise system works, and works better than any other economic system in effect anywhere in the world—feeding, clothing, and housing more people more humanely than any other while allowing them the enjoyment of our basic freedoms—it is losing the semanitic war to an alien philosophy of government control that has never worked but somehow has managed to preserve an aura of idealism, altruism, and ethical soundness—at least when viewed without detailed knowledge and from a considerable distance.

"So the first part of the challenge for American capitalism is clear. We must get across the human side of capitalism, the fact that free enterprise has been and continues to be a force for human good and, in its correct application, an extension of much that is finest in our Judeo-Christian spiritual tradition."

We cannot expect reasoned trade-offs involving our economic system without first of all winning the war against economic illiteracy. We must educate the people about how the system works and the peculiar benefits that apply.

The second program is to stimulate a greater dialogue between an economically literate populace and our elected representatives. We must let them know of our concern for the long-term costs and implications of the programs they enact. If we are getting bigger and bigger government, it must be because that is what our legislators believe we want. If that is not what we want, we should let them know.

In the third major area, we must limit the scope of problems addressed by government action. Over the years, government has proven its effectiveness in endeavors that cannot be undertaken by private insititutions—national security for example. But in many areas, government action cannot be as effective as other mechanisms. Government is not a panacea. It cannot solve all our problems today nor will it do so in the future. What we must have is a return to a balance of roles among all our great institutions—sound and responsive government to be sure, but within an environment of free enterprise, coupled with the essential contributions of religion and a sound educational system. As to the role of business, the marketplace can, if allowed to do so, regulate through freedom of choice, many of the problem areas which we are attempting to control through burgeoning bureaucracies. This will be particularly true if we reestablish profits as an essential and desirable part of our economic system.

The period in which we are living is a critical one for our nation's future. We are facing major problems—inflation, energy shortages, high unemployment, national security, and crime control. If we are able to apply our energies to the solution of these problems, the future benefits will be great. If, on the other hand, we pursue misguided goals which weaken our free enterprise system, we will find a future devoid of the strength which has supported all of our past advances. You and I pay the costs of our nation's mistakes. We should work to avoid those mistakes. The key to preserving free enterprise is involvement—involvement in our educational system and our political system. It is time to become involved.

In closing, I would like to quote W. Allen Wallis, Chancellor of the University of Rochester, who created a vivid image of the American economy as an enormous and vigorous giant being felled by deceptively debilitating forces:

"I am referring to regulatory commissions, tax laws and regulations, non-discrimination laws and regulations, licensing requirements, and so on. Each of these, even the worst, is trivial in comparison with the size and vigor of the American economy. But so are bacteria trivial in comparison with the size of an elephant that they can kill, not by butchering it, but by impairing one after another of the organs whose functions are essential to its life and health. Because we take these multifarious interventions for granted, and because we assume that even though they may be obnoxious they are petty, we fail to note their magnitude and aggregate effects."

Their aggregate effect will be the ultimate destruction of the free enterprise system and the political and social freedom it supports. For the individual, this destruction will translate into reduced challenge and opportunity and deprivation of the high rewards due excellence in a free economy—at the very least. The prospect of all that we stand to lose is too overwhelming not to inspire wholehearted dedication to the goal of freeing the free enterprise system.

## AN ENERGY BILL FOR BUREAUCRATS

Mr. HOLLINGS. Mr. President, I am sure that my colleagues saw David Broder's column in yesterday's Washington Post entitled "An Energy Bill for Bureaucrats." This article is of special interest, not because it treats the state of the President's energy package, but because of Broder's flagging of the Energy Department's efforts to undermine the coastal zone management program by calling for the Secretary of Energy to approve or disapprove State coastal zone management plans.

Some brief background on the coastal zone management program may prove helpful in considering what exactly is at stake here with a provision of this kind.

The effort to establish a coastal zone management program goes all the way back to 1969 and the 91st Congress, when Senator MAGNUSON and I introduced the first coastal management bill. The legislation was based upon the blue-ribbon Stratton Commission report, "Our Nation and the Sea", which recommended a national management plan for our fragile coastal areas which were experiencing tremendous growth pressures from haphazard development. We encountered strong opposition from the Nixon administration and were not successful in getting a bill to the President's desk during that Congress. We came back in the 92d Congress, however, and I introduced a coastal management planning bill again. This time we were successful, and the Coastal Zone Management Act of 1972 became Public Law 92–583.

Administration of the program was placed within the Department of Commerce, in the National Oceanic and Atmospheric Administration. To do so was not a hasty decision. The entire program was premised upon a very flexible and water-oriented management concept. Because the National Oceanic and Atmospheric Administration was already deeply involved in coastal areas, and because of its capability to assist State and local governments, NOAA was purposefully chosen, along with the Department of Commerce, to carry out the law.

The fight was not over then, however, as we soon discovered. In spite of the fact that President Nixon had signed the bill, active funding was withheld by the administration until 1974. We finally won that one too, and in 1975 went on to extend the authorization period for the program.

In 1975 also, I introduced extensive amendments to the Coastal Zone Management Act as a result of the energy problem we were experiencing. We struggled with the Ford administration on that one, but we succeeded and saw those amendments signed into law on July 26, 1976, in the Rose Garden of the White House.

I believe two conclusions can be drawn from this brief history. First, Senator MAGNUSON and I fought long and hard to establish this legislation in exactly the form it is in today; we have a deep

commitment to it and are beginning to see the fruit being borne. Second, we always overcame the opposition that lay in our path.

Now it appears that the brandnew Department of Energy thinks, at least in draft form, that it can administer the coastal zone management plan better than the department and agency which has invested 4 years in doing so, and has all the expertise necessary for doing so. That, in effect, is what the impact would be of the provision contained in the draft bill on licensing nuclear powerplants.

I have a great deal of respect for the Secretary of Energy, Dr. James Schlesinger. I recall a public statement he made some time ago that he was going to be absolutely certain that energy development occurred in an environmentally sound manner, or words to that effect.

The National Ocean Policy Study (NOPS), first under my leadership and now under the leadership of Senator MAGNUSON, has been studying reorganization and administration in the executive branch for 3 full years. NOPS has gotten past everyone's primitive urge to move boxes around to where they look good, and has done a healthy amount of work in public administration theory, among other things. We have learned something very important from this: To put it simply, you do not set the fox to guard the chickens. Now if Secretary Schlesinger will think about this, I think he may agree. In order to preserve the public process and open decisionmaking, and in order to develop the kind of balanced decisionmaking process that is necessary when dealing with conflicting uses, a decided amount of dynamic tension must exist in the process itself. In this way, most necessary information can be forced out into the open on all sides of an issue, and the best-informed conclusion can be reached. There are several ways to do this. One way not to do it, however, is to give the department with the most motivation and responsibility, and the most at stake, in energy development more than an equal say in balancing the environmental and economic benefits and harm.

If the draft bill referred to in the article is introduced in the Senate with a provision affecting the coastal zone management program, I will have to seek referral of that bill to the Committee on Commerce, Science, and Transportation.

I ask unanimous consent that the David Broder article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN ENERGY BILL FOR BUREAUCRATS

(By David S. Broder)

The best costume award at one Washington Hallowe'en part went to the fellow who opened up some more seams and tore some new holes in an old suit and came as the Carter energy plan. This late in a session of Congress, a sight gag like that can seem funny.

The wearer was an old Democrat who knows that many of the important parts of the Carter plan are in far less trouble than press accounts of the last two weeks would suggest. He's also a fellow who has defended most of the plan from the start and who has no doubt that there is a world energy crisis.

What we had, in short, was a defector who still takes the energy crisis seriously but who is beginning to have trouble doing the same with the administration's efforts to deal with it. And for those who cared, he had an interesting explanation of his urge to defect.

It seems that a bill designed to streamline the licensing process for nuclear power plants has been circulating in town for some weeks. It is now in its fourth draft and is scheduled to be taken up in hearings next week by Sen. Gary Hart (D-Colo.).

There is some question whether the bill gets to the heart of the problem. People who want many more nuclear power plants—and, obviously, not all supporters of the Carter program do—tend to doubt that construction delays can be cut down simply by changing the licensing process. Slow deliveries of parts, erratic demand, high construction costs and high interest rates are also part of the problem.

Licensing delays are serious, but people at the Nuclear Regulatory Commission who deal with licensing every day say the new process might cut only six months out of a lead-time for nuclear plants that now averages 12 years.

A much more puzzling aspect of the bill is that it blunders headlong into a delicately negotiated agreement between the states and Washington about how and where to build power plants, refineries and other energy-related facilities along the U.S. coastline.

The last page of the draft bill proposes to amend the Coastal Zone Management Act, which sets the terms of federal-state decisions on coastal energy facilities in 31 seaboard and Great Lakes states.

Neither the act nor its regulations are matters of front-page news, but that does not mean they are unimportant. The basic premise of the coastal acts is that beaches and wetlands and estuaries are national resources that can be destroyed for generations if developers are careless about where they put their condominiums and harbor facilities and power plants.

The coastal act creates a partnership arrangement between Washington and the states for these decisions. There are grants from Washington to the states to help them zone their coastlines, to select sites for development and to protect areas that should be preserved.

Once the federal government approves a state's zoning plan, it also binds itself to abide by its terms in any development involving federal money or licenses. That's where the energy problem enters.

Under the present law, the Secretary of Commerce can grant an exception to the state zoning law for a federal project only if it is found to be "in the national interest" or necessary for "national security." Now "national interest" is a slippery concept. It means one thing to an oil company trying to bring a pipeline ashore in California, and it means something else to an environmental protection agency. But so far, the negotiations between the states and the Commerce Department have been civil and muted and have not done violence to federal-state regulations.

But the administration draft bill would change all of this by giving Secretary of Energy James Schlesinger sole authority to decide whether a state plan should be accepted or rejected. He—not Commerce's Juanita Kreps—would review all proposed coastal plans, compare their provisions with his blueprint for the national energy blitz and, presumably, send them back if they threatened to interfere with any part of his department's program.

During his campaign, President Carter seemed to understand clearly that the mood of the people was resentful of Washington's instinct for dictatorial bureaucracy. But now, the energy plan is all-important to him and Schlesinger.

Certainly, it is important. But to the people who live there or earn their living there, so is a beach in upper Michigan or a port in lower Florida. Those conflicts deserve to be negotiated—not ruled on arbitrarily by the bureaucrats in the energy agency.

That, said the party guest, is the abstract problem with the draft bill. The concrete problem is this: The drafter and protectors of the Coastal Zone Act are Sens. Warren G. Magnuson (D-Wash.) and Ernest F. Hollings (D-S.C.). Neither is the kind of fellow Carter needs to be picking a fight with at this moment. Not if he's smart.

It was enough to make a good Democrat go tear holes in his suit.

## "THE NEED FOR BETTER PROFITS"

Mr. THURMOND. Mr. President, on Wednesday of last week, the distinguished Chairman of the Board of Governors of the Federal Reserve System, Dr. Arthur F. Burns, delivered a speech at Gonzaga University which should be required reading for all who are concerned about the economic health of this country. In this speech, entitled "The Need for Better Profits," Dr. Burns convincingly argues that reasonable and reliable profits are essential to the proper functioning of the free enterprise system. It is business expansion that creates new jobs, and it is the expectation of profit that prompts businessmen to expand.

Unfortunately, Government policy has not reflected adequate concern for the profitability of business in recent years. As a result, business has not nearly achieved its potential for expansion. Unless there is a dramatic change of attitude, Dr. Burns suggests, our economy will continue to perform erratically and unsatisfactorily. In plain, simple, layman's language, our persistent indifference toward the profitability of business has brought us to the verge of killing the golden goose.

Mr. President, I shall not attempt further recapitulation of the opinions of Dr. Burns. I would simply urge all of my colleagues to give his opinions their careful attention. To that end, I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE NEED FOR BETTER PROFITS

(By Arthur F. Burns)

It is a pleasure for me to be here on the campus of Gonzaga University to participate in this celebration of Founder's Day. I am also pleased to be able to join you in honoring a great teacher of economics, Dr. Graue. It is eminently fitting that Dr. Graue's contribution to economic understanding should be noted today not only by festivity but also by serious economic discussion.

In consonance with that, I would like to address a feature of our current economic environment which, as long as it persists, could well prove an insurmountable barrier to the achievement of full employment in our country. I refer to the fact that the profits

being earned by American business are at an unsatisfactory level.

It is both striking and disturbing, I believe, that profits get relatively little attention these days from economists. I have the impression that the economics profession has almost forgotten that ours is still predominantly a profit-motivated economy in which, to a very large extent, whatever happens—or doesn't happen—depends on perceived profit opportunities. Certainly, the preoccupation in the Nation's capital tends to be with other matters.

The slightest hint, for example, of emerging trouble for the economy will promptly unloose a flood of fiscal and monetary proposals, virtually all predicated on the notion that what is crucial is governmental manipulation of aggregate demand. Seldom does anyone pause to ask what should be a compellingly obvious question—namely, whether lack of confidence in profit opportunities on the part of our profit-oriented businessmen and investors may not be the essential cause of difficulty.

My own judgment is that a deep-rooted concern about prospective profits has in fact become a critical conditioner of economic performance in our country. If I am right in thinking so, actions taken in Washington to enlarge the already huge budget deficit in the interest of more consumer spending are likely to be of little sustained benefit in reducing the level of unemployment. That was a principal reason why I felt no lasting benefit could flow from the $50 rebate that was under consideration early this year.

If poor profitability is adversely affecting economic performance, we should expect business firms to exercise great caution in embarking on capital-investment projects. No businessman is likely to add to his plant or equipment if the promise of a decent return is not present. The current expansion of the over-all economy, while otherwise generally satisfactory, has been marked by notably weaker investment spending than was characteristic of previous recoveries. In the two-and-a-half years of this expansion, real capital outlays have increased only half as much as they did, on average, over like periods in the previous five expansions. The shortfall has been especially marked in the case of major long-lived industrial construction projects, and it has occurred even in industries—such as paper and basic chemicals—in which the rate of utilization of industrial capacity is well advanced.

Unless the willingness of businessmen to invest in new plant and equipment increases decisively, the expansion of economic activity now under way will continue to lack balance. And that, I need hardly add, will make it more uncertain whether the expansion is going to continue at a sufficient pace to bring unemployment down significantly, or—for that matter—whether the expansion itself will long continue.

The weakness of profits in recent years is not the only cause of investment hesitancy, but it is unquestionably a very important cause. To be sure, many people have a contrary impression about the general level or the trend of profits. In fact, the most commonly cited profits figures—the so-called book profits that business report to their stockholders—have risen spectacularly in the last few years, and in total are currently running just about double their level a decade ago. But these raw profit figures are misleading and they should never be taken at face value.

In actuality—as the more sophisticated observers of corporate finances know—raw profit numbers have become virtually meaningless as a guide to corporate affairs because of the way in which inflation distorts the calculation of profits. Under historical cost accounting—the method used widely for inventory valuation and universally for capital-asset valuation—the true costs of producing goods in an ongoing business are far from fully captured. Rather, they are significantly understated with respect to both the drawdown of materials from inventory and the consumption of capital assets. And when costs are understated on an accounting basis, profits of course are overstated; that is to say, the reported total of profits contains an element of inflationary fluff that in no sense enlarges a firm's ability to pay dividends or add to retained earnings.

The practical consequence of the inflationary fluff on a company's fortunes is decidedly negative, since taxes have to be paid on the "phantom" portion of profits. Quite obviously, this has lessened the ability of corporations to add to their capital investment without borrowing. The tax drain has become very large in recent years because of the enormous understatement of costs. For 1976, for example, the Commerce Department estimates that the replacement cost of inventories used up by nonfinancial corporations exceeded by $14 billion the materials expenses claimed for tax purposes. More striking still is the Department's estimate for last year of the amount by which depreciation charges based on historical cost fell short of the replacement cost of the capital assets consumed. That estimate came to nearly $36 billion, making the combined understatement of costs from these two sources $50 billion in 1976.

The huge understatement of costs that arises because of inflation cannot be ignored by anyone seriously concerned with corporate earnings. Once account is taken of the distortions wrought by inflation—and when an offsetting adjustment is also made to allow for the changes over time in Treasury depreciation rules—we find that the level of corporate profits was overstated in 1976 by about $30 billion, and that this resulted in an overpayment of some 10 to 12 billion dollars in income taxes. True economic profits of corporations are thus very different from reported book profits.

Just how poor the trend of profits has recently been is clearly indicated by the fact that in each year from 1958 through 1975 the after-tax "economic profits" of nonfinancial corporations from domestic operations were, in the aggregate, consistently below the levels reached during 1965–1967. A new high level of these profits was indeed reached during 1976, but even that achievement is decidedly unimpressive when profits are expressed as a rate of return on the amount of equity capital in use. So far in the inflation-riddled 1970's, the after-tax rate of return on stockholders' equity has averaged only about 3¼ per cent when the tangible assets portion of equity capital is valued, as it should be, on a replacement cost basis. That figure is lower by two percentage points than the average rate of return for the 1950's and 1960's. Despite a sizable recovery from the recent recession, the rate of return on the equity investment in our corporations appears to be running currently at a level not significantly different from the depressed average so far this decade.

Anyone who wonders why capital spending has been so halting or why stock prices have behaved so poorly for so long would be well advised to study this dismal record of what American business has been earning. Historically, there has been an impressively close correlation between the rate of return on stockholders' equity and the rate of real investment. The linkage between the rate of return on equity and the behavior of equity prices is looser, but it still suggests that professional investment managers are no longer being deceived by the inflationary fluff in profit numbers. The stock market, by and large, has not been behaving capriciously; instead it has been telegraphing us a message of fundamental importance.

At any given point in time, investment activity and stock market behavior are conditioned, of course, by much more than current profit readings. What is ultimately decisive in determining the behavior of investors and businessmen is not the rate of return currently earned on past investments but rather expectations about future earnings. Very often current earnings are an excellent proxy for expectations about future earnings; sometimes they are not. My judgment is that businessmen and investors at present have a sense of doubt and concern about the future that is even greater than would be justified by the low level of true economic profits.

One telling piece of evidence that this is so is the pronounced hesitancy of businessmen in going forward with capital-spending projects that involve the acquisition of long-lived assets. The investment recovery that we have experenced so far in this cyclical expansion has been heavily concentrated in relatively short-lived capital goods that promise quick returns—trucks, office equipment, and light machinery, for example. Major investment projects that cannot be expected to provide payback for many years encounter serious delays in getting management's approval. Indeed, the decline of industrial construction that set in during the recent recession continued through the first quarter of this year—two years after general economic recovery got under way—and has not yet turned around decisively enough to establish a clear trend.

Many businessmen have a deep sense of uncertainty about what the longer future holds and, as a consequence, are discounting expected future earnings more heavily than they ordinarily would in their investment calculations. The special degree of risk that businessmen see overhanging new undertakings means that they often will not proceed with a project unless the prospect exists for a higher-than-normal rate of return. This is not only skewing investment toward short-lived assets; it is also fostering an interest in mergers and acquisitions—something that does not require waiting out new construction undertakings. There has been a noticeable pickup in merger activity recently, but such activity generates neither additional jobs nor additional capacity for our Nation's economy.

The reasons why businessmen appear to be assigning special risk premiums to major investment undertakings are complex, and I certainly cannot deal with them exhaustively today. But I would like at least to touch on the conditioning influences that seem most important—beyond, of course, the critical fact that current corporate earnings, properly reckoned, are discouragingly low.

My frequent discussions with businessmen leave little doubt in my mind that a strong residue of caution in businessmen's thinking has carried over from the recession of 1974–75. I think it is fair to say that the present generation of business managers had developed an inordinate degree of faith in government's ability to manage and sustain economic expansion. When they discovered that that faith was not justified, the experience was sobering—particularly for the not inconsiderable number of businessmen who had imprudently expanded debt in the froth of the earlier prosperity. Moreover, the lingering sense of unease produced by the severity of the recession has been deepened by the sluggishness of the subsequent recovery in much of the world economy outside the United States. In contrast to the widely-shared conviction of just a few years ago that the business cycle had been mastered, a surprising number of businessmen are now seized by concern that the world economy may have entered a downphase of some long cycle. One factor sparking such speculation is apprehension that the quantum jump in energy prices may be affecting the world's

growth potential to a more serious extent than was originally thought likely.

More troublesome still, the specter of serious inflation continues to haunt the entire business community. The fear that inflation will not be effectively controlled is indeed a key reason for the high risk premiums that businessmen nowadays typically assign to major investment undertakings. Increasingly, businessmen understand the severity of the burden they are carrying on account of the taxation of "phantom" profits. They also have learned the hard way—from the frenetic conditions of 1973–74—that inflation is totally inimical to a healthy business environment. Having little basis for projecting how inflation will affect their enterprises and fearful that government may in time resort to direct controls once again, they feel bewildered in attempting to judge their future costs or their future selling prices. Because of that, they yearn for some solid piece of evidence that inflation will be tamed. They are troubled because no such evidence is yet at hand.

Added to these concerns is the fact that businessmen have had great difficulty in evaluating the implications of the major policy initiatives that are being considered this year. Businessmen cannot at this juncture confidently judge what kinds of energy will be available in the years ahead. Nor do they yet have any firm basis for assessing what kinds of tax incentives or disincentives may apply to particular energy uses.

They are concerned that innovations in Social Security financing now under consideration may end the traditional rule under which employer and employee taxes have been the same and, as a consequence, lead to multi-billion dollar increases in the Social Security levies they have to pay. They suspect, moreover—as do many others—that the revamping of welfare programs will prove much more expensive than is now being estimated and that still additional taxes on businesses will be imposed as a means of financing reform. And the daily rumors about impending tax reform, among which ending of preferential treatment of capital gains is frequently emphasized, have contributed to a mood of unease in both corporate board rooms and the stock exchanges. So too has the expectation that a serious campaign for a costly undertaking in national health insurance may start next year.

I strongly suspect that the ability of businessmen to assimilate new policy proposals into their planning framework has now been stretched pretty far. In fact, I seldom talk with a businessman these days who does not, in one way or another, voice concern about his inability to make meaningful projections of corporate costs and earnings for the years immediately ahead.

The implications of the matters on which I have been dwelling—the behavior of profits and the state of mind of the business community—appear to have escaped a good many people. Economic analysts who insist, for instance, that capital spending will automatically catch fire as capacity margins diminish are, in my judgment, thinking too mechanically. Much will depend on the process by which the economy reaches more intensive utilization of resources—especially on government's role in that process.

I also think that analysts endeavoring to assess capital-spending prospects—and indeed prospects for the economy generally—may be neglecting a sensitive cyclical development. I refer to the fact that, whereas prices charged by business generally advanced more rapidly than did the costs incurred by business in the early stages of this expansion, that is no longer the case. This, of course, means that profits per unit of output have stopped rising and may indeed have begun to fall—a development typical of the more advanced stage of business-cycle expansions and one that is certainly not conducive to vigorous capital-investment activity. I know enough about business-cycle behavior to avoid at this time the inference that a sustained profits squeeze is emerging. We have here, nevertheless, an incipient imbalance in the economic situation that ought to concern us. And it is one more compelling reason to ask if national policy does not need to be more explicitly oriented to the strengthening of profitability and the encouragement of capital formation.

The last time business investment in fixed capital was as weak as it has been since 1973 was in the late 1950's and early 1960's. I believe there are some policy lessons we can profitably draw from that period. There was a great deal of concern at that time that a phase of deep-seated economic malaise had set in, with worry voiced that sluggishness in business investment might well prevent the economy from attaining full employment. The parallels with today— both in objective fact and in assessment—are close in many respects, the major differences being that profit rates were not as low then, nor was inflation comparably troublesome.

A bold policy approach—predicated on the need for stimulation of capital investment—was then developed, with one of President Kennedy's early messages to Congress calling for enactment of an innovative tax device, namely, the investment tax credit. The Revenue Act of 1962 brought the tax credit into being. That same year witnessed a reinforcement of investment incentives in the form of significant liberalization of Treasury depreciation rules. This investment-oriented thrust of policy was followed, moreover, by recommendations for broadly based income tax reductions for both businesses and individuals, and they ultimately were embodied in the Revenue Act of 1964. Taken together, those actions of the early 1960's were sensitively responsive to conditions that have many similarities to the situation in which we now find ourselves. And what is particularly worth recalling, those actions soon had the consequence of strengthening dramatically both investment activity and the general economy.

If we were able to launch a policy response now that was just as unambiguously positive in its implications for profitability, I for one would have little doubt about our economy's capacity to shake off its malaise. As every recent study of our Nation's investment needs has emphasized, we are confronted with an enormous capital-formation challenge for the years ahead. If we have the good sense to create hospitable conditions for saving and investing, I truly believe ours could become an age of sustained progress in employment and well-being.

The doubts and uncertainties that now prevail in the business and investing community reflect, in large part, irritation or annoyance at what is viewed as governmental myopia. They must not be interpreted as being indicative of business timidity. That enormous vitality and dynamism still exist in our business system is attested by the extraordinary fact that, despite the weakness of profits in recent years and the cumulating anxieties about the future, our economy has actually generated nearly seven million jobs since the spring of 1975—nearly all of them, I should add, in private industry.

The practicality of so many initiatives in this Administration's first year is arguable, but the President's leadership also bespeaks a seriousness of purpose that in the end may bring lasting benefits to our Nation. We have been through a year of animated policy debates—a year, I think, of useful growth in the perception of how plausible but divergent objectives can be practically blended. The basic reform this country now needs is the creation of an environment with many new job opportunities for our people. I expect the dust of controversy to settle and that constructive legislation will follow.

I do not mean to suggest that encouragement of investment through a bold tax policy is all that is needed. Such encouragement is vital, to be sure, and it will undoubtedly make a difference in the willingness of businessmen to invest in new plant and equipment. But the effort at eliminating the high risk that now attaches to investment must be of broader reach. It must go to the array of concerns of the business community about energy policy, about environmental codes, about governmental regulations at large, and—above all—about inflation.

I cannot overstate the important of unwinding the inflation that is continuing to plague our economy. There is a paramount need for avoiding new cost-raising measures by government, of which the recently legislated increase of the minimum wage is only the most recent very troublesome example. Fiscal and monetary policies need to be conducted in ways that will quiet rather than heighten inflationary expectations. On the fiscal side, this means that great caution will have to be observed both in giving up tax revenues and in program initiatives entailing new expenditures.

As a practical matter, expenditures on some existing programs may therefore have to give away. We simply dare not take steps that would result in any appreciable enlargement of our already swollen budget deficit. That could only excite unease in the business and financial community.

On the monetary side, I want to assure you that we at the Federal Reserve fully appreciate the critical linkage between money creation and inflation. We have no intention of letting the money supply grow at a rate that will add fuel to the fires of inflation. On the contrary, we are determined to bring about a gradual reduction in the rate of money expansion to a pace compatible with reasonable price stability. That cannot be done quickly because of the powerful inflationary pressures that have become embedded in our economic life over so many years; but I assure you that it will be done if the Federal Reserve retains—as I expect it will—the independence from political pressures on which the Congress has so wisely insisted across the decades. That does not mean that the Federal Reserve is preoccupied with the objective of monetary firmness. Our obligation to foster financial conditions that favor the expansion of job opportunities is clear and I assure you this is very much on our minds. We constantly keep probing for that delicate balance between too much and too little money.

The increase of short-term interest rates that has occurred since late April has served to check what would otherwise have been an explosion of the money supply. By taking measures to check the growth of money, we have demonstrated that we remain alert to the dangers of inflation. As a consequence, long-term interest rates, which nowadays are extremely sensitive to expectations of inflation, have remained substantially stable. Had we not taken steps to bring the money supply under control, I have little doubt that fears of inflation would now be running stronger, and that long-term interest rates, which play such a significant role in shaping investment decisions, would therefore now be higher than they in fact are. In that event, of course, the continuance of economic expansion would be less secure.

We at the Federal Reserve always welcome advice on how best to proceed. Ours, however, is the responsibility to act in the monetary area, and we intend to exercise that responsibility in ways that promote the long-run as well as the immediate interests of this Nation.

## THE SECOND ANNUAL CONVENTION OF THE MINORITY TRUCKING-TRANSPORTATION DEVELOPMENT CORPORATION

Mr. GLENN. Mr. President, today is the first day of the second annual convention of the Minority Trucking Development Corp., an organization dedicated to achieving greater minority participation in the national transportation industry. This convention will have as participants representatives of many of the Nation's leading businesses as well as important Government officials, such as Interstate Commerce Commission Chairman Daniel O'Neal.

I had expected to participate in an opening session this morning, but was unable to do so due to a meeting of the Senate Foreign Relations Committee.

I ask unaimous consent that my prepared remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOHN GLENN

I am very pleased to join you this morning and to offer my complete support for your efforts to increase minority business participation in the Transportation Industry as well in all other sectors of our economy.

As you know, I will soon be holding hearings on S. 607, our proposal to upgrade and strengthen the federal minority business assistance effort by creating an office of Assistant Secretary for Minority Business Development in the Commerce Department. This bill cleared our Intergovernmental Relations subcommittee by an 8-0 vote last year only to die in the rush to adjourn prior to the Presidential elections. This year we already have 18 co-sponsors and firmly believe that S. 607 can be a significant vehicle for major progress in minority business development as it would bring together, under one strong roof, many of the separate and competing federal programs that aid minority business. I will continue to push to enact this important bill, that for the first time, will give legislative authority to the areas and duties now covered by the Office of Minority Business Enterprise.

There are other issues of vital importance to minority truckers that I would like to briefly outline and comment upon.

MINORITY TRUCKERS' PETITION EX PARTE NO. MC 107

I am in complete support of Congressman Parren Mitchell and the minority truckers' petition which seeks greater participation by minorities and economically-disadvantaged persons in the transportation of the estimated $12 billion worth of regulated traffic that is spent annually by the Government. I urge the Administration and the ICC to encourage agencies of government to increase utilization of minority firms for the transport of government cargo. I am hopeful that Chairman O'Neal of the ICC will take further positive steps to increase the numbers of licensed minority carriers.

REGULATORY COMPLEXITY: THE IMPACT ON THE SMALL AND MINORITY-OWNED BUSINESS

I am pleased that ICC Chairman O'Neal has taken steps to simplify the ICC regulatory process and to meet the special needs of small businesses. There is no group in our society more vulnerable to the costs and burdens of complicated regulations and paperwork requirements than the small and minority-owned businessman who lacks both time and resources to devote to meeting these burgeoning requirements. I support Chairman O'Neal in his efforts and I am happy to join Senator Gaylord Nelson as a co-sponsor of S. 1974 which seeks to empower and encourage federal regulatory agencies to bring regulations and regulatory requirements into conformity with the size of those businesses being regulated.

MINORITY REPRESENTATION AT THE POLICY-MAKING LEVEL

Finally, let me urge you to keep up your struggle for proper representation at all levels of government. In 1977, there is no longer any tolerable excuse for the absence of minorities on our regulatory bodies, in key agency offices, in Congress, on Congressional staffs, committee staffs, or anywhere else. I have and will continue to be active in this area in the Senate as a member of the Governmental Affairs Committee.

Congratulations again on your convention. I plan to announce it today in the Congressional Record for the benefit of my colleagues.

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## THE FIGHT FOR REASONABLE LUMBER PRICES

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs held a hearing on October 21 to examine why lumber prices have climbed sharply in recent months. Lumber is essential for homebuilding today, and its price is a significant element in the cost of housing. The committee is deeply concerned about the rising cost of housing, and is now studying several aspects of this problem.

In the course of the hearing on lumber prices, the committee heard from the Senator from Idaho (Mr. MCCLURE), from officials of the homebuilding industry, and from the industry that produces lumber and wood products. In addition, the committee received testimony from the Chief of the U.S. Forest Service and received a new study of lumber prices just completed by the Council on Wage and Price Stability.

The Council on Wage and Price Stability reported that lumber prices have, in fact, climbed sharply. In the years since 1970 the prices for softwood lumber and plywood increased by 14 percent per year, or twice as fast as other nonfarm products. This spring, wood prices surged even higher, increasing by more than 25 percent over the previous year. Homebuyers and homebuilders from all parts of the country wrote to members of the committee, protesting these sudden, large increases.

Fortunately, it now appears that prices peaked in late August, and there has been some relief since then. Observers foresee, in the winter months immediately ahead, a stabilization of lumber prices.

But the longer run outlook is very different. The Council on Wage and Price Stability found that, "The longrun problem of rising lumber prices remains and may become more serious in the coming decade." The Forest Service testified that, "demand for timber products has been increasing more rapidly than timber supplies." Their projections show that demands "are likely to continue to grow in the decades ahead," while "timber supplies, if our forests continue to be managed as they were in the 1960's show very little increase." According to the Forest Service, the price trend for lumber is up, and each cycle is expected to produce even higher peak prices.

These projections are sobering for all of us who are concerned with expanding housing and employment opportunities. A continuing increase in the relative price of lumber products could threaten both the achievement of our national housing goals and the health of our housing industry which plays such a vital role in stimulating production and employment in all kinds of industries in all parts of the country.

While the outlook is sobering, it is not without hope. The excellent testimony prepared by our witnesses, and other statements we have received, contain a wealth of suggestions for what we can do to avoid the adverse consequences that would result from an unchecked spiral in lumber prices.

I would like to indicate some of these, because I am convinced that most of us—in the Congress and in the executive branch, in the industries that produce and the industries that use wood, and as citizens concerned about the environment, the economy, and the many social values that are affected—have been derelict in taking appropriate action to insure that the Nation's supply of timber products will be adequate for meeting the Nation's housing needs.

All of the witnesses pointed to the need for better management of our commercial timber lands. It is generally conceded that commercial forest land in the United States could produce a greater supply of wood if intensified forestry practices were utilized on both private and public lands. With appropriate thinning and cutting; roadbuilding; insect, disease, and fire controls; and reforestation practices, future harvests could be increased significantly, it is contended, without sacrifice of multiple purpose forest values. The greatest untapped resource, a number of experts assert, is the almost 300 million acres of private, nonindustrial land which has commercial forest-growing qualities.

Many witnesses also pointed to the need for better utilization of the available timber supply. The committee received information that billions of board feet of wood are lost each year as a result of inefficient logging and milling operations.

Increased research could, it is widely believed, increase the supply of timber products by improving yields, and conserve its use by developing new wood products, new uses for underutilized species and more efficient techniques for utilizing wood. Additional research could also point the way toward greater use of nonwood substitutes.

Industry representatives, particularly, urged actions to accelerate the inventory and review of the Nation's roadless areas now being conducted by the Department of Agriculture. Uncertainties about the future designation of these areas, it is argued, is inhibiting planning by the communities and industries affected by the temporary withdrawal of roadless areas from multiple-purpose use.

The committee also heard recommendations that Congress insure, through providing adequate appropria-

tions and authorization for increased Forest Service manpower, that harvesting levels for Federal timber lands reach the allowable cuts recommended under the Resource Planning Act. Witnesses pointed out that actual timber cuts have been falling significantly below recommended ceilings for several years, largely because of shortages in Forest Service manpower.

These suggestions, and others, indicate that, if we are to head off a greater scarcity of lumber and timber products in the years ahead, we must now give more attention and probably more of our financial resources to the care of forested areas. Wood is still the most important single product in our houses. It is a renewable resource. But unless we as a nation learn to cultivate it and conserve it adequately, we shall find, in light of the many and growing demands we place upon it, that our opportunities for enjoying adequate shelter, recreation and environment will deteriorate drastically.

Our lumber hearings have shown, I believe, that we must more carefully review the policies and practices we have adopted with respect to our timberlands. And we must encourage greater efficiency in using timber products.

The cost of our housing and the health of our economy are at stake.

## H.R. 5263—ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

Mr. STEVENSON. Mr. President, during consideration of H.R. 5263, the Energy Production and Conservation Tax Incentive Act, I was necessarily absent from the Senate during certain rollcall votes occurring on October 28, 29, and 31.

Had I been present, I would have voted in favor of the Hart amendment No. 994 (rollcall No. 589); against the McIntyre amendment No. 995 (rollcall No. 590); to table the motion to recommit the bill by Senator DOLE (rollcall No. 591); against tabling the Appropriations Committee amendment No. 1000 (rollcall No. 592) and in favor of that amendment (rollcall No. 593); against tabling the Kennedy amendment No. 1467 (rollcall No. 594); to table the Allen amendment No. 1001 (rollcall No. 595); in favor of the Kennedy amendment No. 1467 (rollcall No. 596); to table the Durkin amendment No. 1540 (rollcall No. 597); against tabling the Percy amendment No. 1495 (rollcall No. 598); against the Roth amendment No. 1533 (rollcall No. 599); to table the Roth amendment No. 1534 (rollcall No. 600); against tabling the Dole/Kennedy amendment No. 1010 (rollcall No. 601); and to table the Kennedy amendment No. 1013 (rollcall No. 602).

## INDEPENDENT CONSUMER PROTECTION AGENCY

Mr. DECONCINI. Mr. President, legislation authorizing the establishment of an independent Consumer Protection Agency has been reported from the responsible committees in both Houses of Congress. In the course of congressional consideration of these two measures, a number of misconceptions grew up concerning both the character of the Agency and the nature of the forces supporting and opposing its creation.

One of these concerns the posture of the business community. The popular perception is that the business community is unanimously and vehemently antagonistic to the creation of an agency whose primary mission is to protect and promote the interests of consumers. It is my experience that this is a mistaken impression and I would like to call the attention of my colleagues to two full page statements endorsing the formation of such an agency; these appeared in the Washington Post and were sponsored by large retail business firms.

I ask unanimous consent that these statements be included in the RECORD.

Moreover, it should be noted that these two firms are by no means exceptional. I have here a partial list of businesses and corporations that have so far gone on record in favor of a Consumer Protection Agency, and I ask unanimous consent that it, too, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN OFFICE OF CONSUMER REPRESENTATION: WE NEED IT!

An Office of Consumer Representation—in this age of consumerism—you'd think everyone would support it.

But it's hard to think of a more controversial issue.

Most business people are against it.

We're for it.

We believe in our free marketplace. Our economy is like a three-legged stool. The legs are business, labor, and consumers. If the economy is to function as it should, all three legs should be in balance.

Business and labor have departments in the Federal Government to look after their interests. Consumers have no counterbalancing voice.

We think they should have one.

The proposed Office of Consumer Representation will have no regulatory power. Its only power will be to speak on behalf of consumers within the Federal Government.

Frankly, we've had some reservations. But the new bill takes care of them. We don't see why business is still so alarmed. We've seen all the arguments—and we think the Office of Consumer Representation is an idea whose time has come.

The House of Representatives will probably consider the bill establishing an Office of Consumer Representation in the coming weeks. Why not exercise your prerogative as a citizen and let your Congressman know how you feel about this issue?

MYRON D. GERBER,
*Chairman of the Board.*
MILTON L. ELSBERG,
*President.*

WE SUPPORT H.R. 9718—THE OFFICE OF CONSUMER REPRESENTATION

WHY WE THINK IT IS IMPORTANT

At Giant we have always believed that the consumer viewpoint should be represented in business. We also believe that it is equally important for consumers to be represented before our federal government. That is why we strongly support H.R. 9718 which will establish an Office of Consumer Representation.

This is a change from our previous position because we feel this new bill provides a better balance between consumer, industry and government interests.

H.R. 9718 represents a compromise that was hammered out in the best democratic tradition. Although the bill still exempts some components of labor and agriculture, we are confident it is a step in the right direction. We hope the House will pass this bill, and that the Senate will agree on the same legislation.

WHAT WILL HAPPEN WHEN THE BILL PASSES?

An independent and nonregulatory office will be established to give consumers a voice in federal agencies and the courts.

A complaint clearinghouse will be set up to assist in the resolution of consumer complaints.

Existing consumer functions in other federal agencies will be consolidated into this office, saving money and cutting down on government bureaucracy.

Consumer information and education materials will focus on key consumer issues.

This bill will accomplish President Carter's desire to give consumers a stronger voice in the marketplace . . . and we think that's good.

Robert R. Nathan Associates, Washington, D.C.; National Patent Development Corporation, New York City; The National State Bank, Trenton, New Jersey; North Jersey Suburbanite, Englewood, New Jersey.

Oakland Consolidated Corporation, Maitland, Florida; Optical Systems Corporation, Burlingame, California; Outdoor Enterprise, Inc., Summerville, West Virginia.

Pennsylvania Power & Light Company, Allentown, Pennsylvania; Phillips-Van Heusen, New York City; Piedmont Industries, New York City; Pioneer Systems, Inc., Manchester, Connecticut; M. Polaner & Sons, Inc., Roseland, New Jersey; Polaroid Corporation, Cambridge, Massachusetts; Professional Insurance Agents, Washington, D.C.; Puritan Fashions Corporation, New York City.

Ratner Clothes Corporation, San Diego; The Record, Hackensack, New Jersey; Redwood & Ross, Inc., Kalamazoo, Michigan; REVCO, Twinsburg, Ohio; Rice's Department Store, Norfolk, Virginia; Rob Roy Company, Inc., New York City; The Rouse Company, Columbia, Maryland; Royal Transmission, Las Vegas, Nevada.

Scottish Inns of America, Knoxville, Tennessee; Security Title Guaranty Company, Salt Lake City; Sentinel Bag & Paper Company, Brooklyn; Alfred P. Slaner, trustee Dupan Corporation, New York City; Peter Solomon, director Lehman Brothers, New York City; Star Market Company, Cambridge, Massachusetts; The Stop & Shop Companies, Boston; Stratford Town Fairs, Stratford, Connecticut; Stride Rite Corporation, Boston.

TDK Electronics Corporation, Garden City, New York.

Warner Communications, New York City; Weissman, Mackta & Company, Morristown, New Jersey.

Barnett Zaffron & Associates, Highland Park, Illinois.

Gamble Corporate Buying, New York City; General Instrument Corporation, New York City; Gentech Industries, Englewood Cliffs, New Jersey; Giant Food, Inc., Landover, Maryland; Greenbelt Consumer Services, Inc., Silver Spring, Maryland; Grossman Paper Company, Irvington, New Jersey; Group 70, East Orange, New Jersey.

Hamburgers, Baltimore, Maryland; Hang Ten International, San Diego, California; Harper Systems, Little Rock, Arkansas; Harris & Frank, Inc., Los Angeles; Hechinger Company, Washington, D.C.; Henhouse Interstate, Inc., St. Louis; Hill Publishing Company, Westport, Connecticut; Holiday Universal, Inc., Towson, Maryland; Hydro Med Sciences, Inc., New Brunswick, New Jersey.

IK Information Systems, Irvington, New Jersey; Imperial Packaging Corporation, Bal-

timore, Maryland; Industrial Designers' Society of America, McLean, Virginia; International Creative Management, New York City; International Group Plans, Washington, D.C.; International Seaway Trading Corporation, Cleveland, Ohio.

Joseph & Feiss Company, New York City.

Robert Kahn & Associates, Lafayette, California; Kennedy Associates, Westport, Connecticut; Kennedy Group, Westport, Connecticut; Kennedy's, Boston; K-Mart Apparel Corporation, North Bergen, New Jersey; Kobacker Stores, Inc., Brilliant, Ohio; Kings Super Markets, Inc., Irvington, New Jersey.

Levi Strauss, San Francisco; Lloyd Shopping Centers, Inc., Middletown, New York; L. S. Good & Company, Wheeling, West Virginia; Dan Lufkin, New York City; Luskin's Inc., Baltimore, Maryland.

MCA, Inc., Universal City, California; Mackey Travel, New York City; Magnetic Video Corporation, Framington, Michigan; Emily Malino Associates, Inc., Washington, D.C.; Marshall Doty Associates, Hagerstown, Maryland; Maxwell Corporation of America, Moonachie, New Jersey; Media Sound, New York City; Mobil Oil Corporation, New York City; Monogram Industries, Inc., Santa Monica, California; Montgomery Ward & Company, Chicago; Myers Brothers, Springfield, Illinois.

Business supporters of HR 9718, The Consumer Representation and Reorganization Act of 1977.

Advanced R&D, Inc., Orlando, Florida; Aldi-Benner Company, Burlington, Iowa; American Income Life Insurance Company, Waco, Texas; American Sound Corporation, Warren, Michigan; AMIVEST Corporation, New York City; Applikay Textile Process Corporation, Passaic, New Jersey; Atlantic Richfield Company, Los Angeles.

Bantam Books, Inc., New York City; The Bergen Record, Hackensack, New Jersey; Big Smith, Inc., New York City; Blake's, Springfield, Massachusetts; Blue Cross Association, Chicago; Bonne Bell, Lakewood, Ohio; Boulder National Bank, Boulder, Colorado; Brands Mart, Long Island City, New York.

Cardinal Pictorial Outdoor Advertising, Atlanta, Georgia; The Cas Taylors, Cumberland, Maryland; Certron Corporation, Beverly Hills, California; Chain Store Systems, Ltd., Burlington, Iowa; Chief Auto Supply, Cerritos, California; Cinema 5 Ltd., New York City; Coffee Associated Food Enterprises, South Windsor, Connecticut; Condamatic Company, Warren, Michigan; Consumer Concepts, Milwaukee; Consumers Cooperative Society, Palo Alto, California; Consumers Cooperative of Berkeley, Richmond, California; Consumers United Insurance Company, Arlington, Virginia; Country Gal, Westport, Connecticut; Cummins Engine Company, Inc., Columbus, Indiana.

Daily News Record, New York City; Dreyfus Corporation, New York City; Drug Fair, Alexandria, Virginia; Dyna Day Plastics, Inc., Madison Heights, Michigan; Dyson-Kissner Corporation, New York City.

Equitable Bag Company, Inc., Long Island City, New York; Executive Life Insurance of New York, Jericho, New York.

Factory Equipment Corporation, Los Angeles; Fairchild Publications, New York City; Federation of Cooperatives, Inc., New York City; Feuer Precision Gauges, Inc., Forest Hills, New York; Fishing Unlimited, New York City; Florida Investors Mortgage Company, Gainesville, Florida; Francis Chevrolet, Irvington, New Jersey; Frankel Carbon & Ribbon Company, Denver, Colorado.

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## SOUTH AFRICAN GOVERNMENT'S SUPPRESSION OF POLITICAL DISSENT

Mr. HUMPHREY. Mr. President, the Foreign Relations Committee has approved a resolution introduced by Senator CLARK, which I cosponsored, that condemns the South African Government for its recent repressive measures against its press and moderate organizations and individuals opposed to apartheid. I have been deeply disturbed by the trends in South Africa, and the latest events reveal the obduracy of the South African Government in the face of legitimate demands of its black citizens for participation in the political process.

Mr. President, I expressed my concerns on this issue in a letter to the chairman of the Foreign Relations Committee, and I ask unanimous consent that it be printed in the RECORD, together with recent articles from the New York Times on South Africa.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
*Washington, D.C., October 31 1977.*

Hon. JOHN SPARKMAN,
*Chairman, Committee on Foreign Relations, Washington, D.C.*

DEAR MR. CHAIRMAN: I wish to express my support for Senator Clark's concurrent resolution condemning the recent actions of the South African Government in suppressing political dissent. In the last two months, South Africa has taken a series of repressive actions against the press and peaceful opponents of its apartheid system that have been universally condemned by the rest of the world. The tragic death of Steve Biko, while in detention, shocked us all. Senator Clark and others who met him agreed that he was a potential national leader committed to justice for his people.

The South African Government chose to respond to the pressure for change which intensified following Biko's death by closing down the World, the largest black newspaper in South Africa, and by banning and arresting the leadership of moderate groups, black and white alike, who advocate peaceful change. Thus the South African Government has closed virtually the last door to the peaceful expression of dissent and has itself begun to dismantle its cultural ties of freedom of thought and expression by which it claimed it was bound to the free world.

Our own Subcommittee staff, recently in southern Africa, met some of those leaders banned and arrested. They were men of decency and principle in the same tradition as our own citizens who fought so long to overcome the barriers of racism in this country. While we recognize that the lessons of the American civil rights struggle cannot be applied uncritically to the South African situation, we also know that if all peaceful avenues to change are closed, the only alternative becomes violence. This is where South Africa is now poised by the actions of its own government.

Organized racism is intolerable in today's world and does genuinely constitute a threat to world peace and stability. No litany of wrongs in the rest of the world can erase the repressive actions of the South African Government.

We have tried gentle reproaches in the past and supported the South African Government by our veto in the United Nations. We have hoped that economic growth, spurred by American investment, would open new economic opportunities for blacks leading to political reform. None of these measures has worked.

The time has come for a stronger stand by the U.S. bilaterally and in the United Nations. The South African Government argues that it can stand alone, but no nation can cut itself off completely from the rest of the world. It is important to convince the South African Government that we are serious in our commitment to change there and that our government feels that their present policies will lead to a racial war, with untold harm to themselves and the rest of the world.

I support this resolution and urge the President to take effective measures to register the strongest disapproval of South Africa's move toward repression.

Sincerely,

HUBERT H. HUMPHREY.

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SOUTH AFRICA, A LONER

Where South Africa is concerned, protest is easy, effective protest is not. This seemed to be the Carter Administration's thinking last week when it announced its response to South Africa's latest suppression of dissent. The United States, President Carter said, will support United Nations sanctions against the sale of weapons to South Africa but not the total trade embargo demanded by black African nations.

In practical terms, the announcement did not really advance United States policy; although Washington has always vetoed arms sanctions against South Africa it has voluntarily enforced a weapons embargo since 1963. But by supporting the arms sanctions now, the Administration, and the other four Western members of the Security Council, believe that they can soften demands for a blanket embargo on trade.

Washington opposes trade sanctions against South Africa for a variety of political and economic reasons. It also doubts how effective sanctions would be.

Economics.—The United States and its allies carry on extensive trade with South Africa. Britain, South Africa's largest trading partner, would have particular difficulty withstanding the financial loss.

Politics.—With a strong black caucus in Congress and an outspoken Ambassador in the United Nations and a new policy emphasizing closer ties with black African states, the Administration had to react strongly to South Africa's actions. But other political considerations dictated a more moderate response. South Africa has been a go-between for the United States and Britain with Rhodesia. It has also been negotiating with Western countries a plan for the independence of South-West Africa, a territory it governs in defiance of United Nations resolutions. As the object of trade sanctions, South Africa could hardly be expected to follow Western advice on South-West Africa, Rhodesia, or anything else.

Effectiveness.—Trade embargos imposed in the past have often accomplished little and sometimes backfired. Rhodesia, under United Nations sanctions since 1966, had a flourishing economy until recently. Cuba, blockaded by the United States in the early 1960's, only became more dependent on Soviet aid.

The South African Government would of course like the world to believe that condemnations, sanctions and any other form of protest will have no effect on its racial policies. Pieter W. Botha, the Defense Minister, said that with or without an arms embargo his country could meet any threat short of a United States or Soviet attack.

Other experts support that view. But although an arms embargo in itself would pose no great difficulty for a country that is already largely self-sufficient in weapons production, there is some apprehension. Senior ministers have described the action as the beginning of the ultimate challenge to the survival of white South Africans as masters of their redoubt. However, this belief has produced no sign of change, only an angry determination, even among those previously disposed to improving the lot of the blacks.

"War has been declared on us," said Roelof F. Botha, the Foreign Minister and previously one advocate of change. "We are not retreating."

But foreign condemnation, along with lo-

cal concern articulated by the vigorous English-language press, may have been a factor in South Africa's decision last week to open an inquest into the death in police custody of Stephen Biko, the black protest leader. Although the Government has not yet published a complete autopsy report, it has confirmed what many of its opponents suspected, that the primary cause of Mr. Biko's death last month was brain damage resulting from head injuries.

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APARTHEID, AS REAL AND PAINFUL AS EVER

(By John Darnton)

JOHANNESBURG.—Mymoena Salie, a bathing beauty from Cape Town, recently became the first black woman to win a multiracial beauty contest in South Africa. It was, in no small way, evidence of where the country stands today in its race relations. But not as convincing evidence as what soon ensued. Miss Salie found herself unable to accept her prize—a two-week seaside vacation—because the hotel did not admit blacks.

This incident, and the thousands of other unpublished ones that are a daily feature of South African life, have convinced many of the country's 18.6 million blacks that the Government representing the 4.3 million whites is disingenuous in its promise, now three years old, to move away from petty discrimination. (When it comes to serious discrimination, which consigns the races to both a separate and unequal life, the Government is making no promises.)

"It's like trying to go up that escalator," said a black hotel worker, pointing to the belt moving downward. "Every time I'm told I've taken a step up, I look around and everything I see—my job, my house, the school for my boys—it all tells me I'm moving backward."

On the surface, there have been some changes, but they are superficial indeed. In the major cities, a handful of hotels are now classified as "international" and so can legally accommodate blacks. But their prices place them out of reach for almost the entire black population. The signs for whites and non-whites, which used to jolt foreign visitors arriving at Jan Smuts airport, have been removed from the restroom doors in the international arrivals lounge. But in the domestic departure lounge, they are still there.

Some theaters, churches and sporting clubs have taken cautious steps in violation of the law, to mix blacks and whites. The Government, aware of these steps, has turned a blind eye and the liberal English-language press, by unspoken consent, does not publicize them. But as soon as a citizen registers a complaint, the experiment in integration is swiftly ended.

The crazy-quilt manner in which some of the most petty forms of discrimination have been lifted—the fact that some park benches have been desegregated while some footbridges have not—mirrors divisions and confusion within the Afrikaner-based National Party, which over its 30 years in power has spread the doctrine of racial separation and white supremacy into every facet of national life.

Some Government officials favor easing "unnecessary" discrimination as a means of blunting black protest and regaining a measure of international rsepectability. Others argue strongly for their retention, on the theory that if a single stone is removed, the entire edifice of white rule could come crumbling down. Almost no whites, and certainly none in power, talk about granting blacks broader political rights or doing away with the bed-rock forms of segregation in housing, education and jobs.

Officially, "apartheid" is dead. The Government has abandoned that term, which holds noxious connotations overseas, in favor of the more antiseptic "separate development" or, even, "plural democracy." The new terminology is more than just a new euphemism, however, for it signals an accelerated push toward the scheme of grand apartheid, whose foremost ideologue was the former Prime Minister, Hendrik F. Verwoerd. Under it, the black population is consigned to nine rural homelands, where they are to exercise self-rule and eventually gain independence. The whites, Asians, and persons of mixed blood, known here as coloreds, own and occupy the remainder. The remainder, as specified by law, is 87 percent of the land.

Because black labor is required to run the white economy, however, total separation of the races is impossible. From this quintessential dilemma flows the elaborate web of laws that tell a black where he may live, work, eat, sleep, travel, play games and go to school. The laws are justified, according to party philosophy, because the blacks are essentially transitory visitors in "white areas," and so totally without rights. M. C. Botha, the Minister of Bantu Administration and Development, ruled several months ago that businessmen could not hire black shop managers and insisted that in so doing he was in no way discriminating against blacks. They are simply "secondary to whites" in white areas, he said, just as whites would be "secondary" to blacks in the homelands (though in fact whites do manage stores in the homelands).

For nonwhites in South Africa, laws govern every movement. The Group Areas Act specifies where the racial groups may live. There are different ones for whites, blacks, the 2.4 million coloreds, and the 750,000 Asians. The system is as rigid as the country's criteria for racial classification, and the two sometimes combine to pull a family apart. If a colored woman and black man have children, for example, the offspring are classified as black and as such cannot legally live with their mother.

The most despised part of the system is "influx control," devised to keep blacks from migrating at will to white areas. It is maintained through the notorious passbook, which every black over the age of 16 must carry at all times and produce on demand for the police. It lists his tribal group, where he may live and work, his employer, his tax payments. It is the basic control document, "our badge of slavery," said one teenager from Soweto, the ghetto outside Johannesburg.

Much of the anguish of urban blacks stems from "Section 10," a provision of the Bantu (urban areas) Consolidation Act. Under it, it is illegal for a black to remain in any urban area, such as Soweto, for more than 72 hours unless he can prove that he has lived there continuously since birth or has worked there continuously with one employer for at least 10 years. Wives, unmarried daughters, and sons under 18 are permitted to remain with legitimate residents. The hidden intent of the law is to keep the unemployables in the homelands. Thus, if a man loses his job, or a wife is widowed, they are liable to be "endorsed out," sent to the homelands which, in many cases, they have never seen before.

Blacks are allowed to leave the homelands as migrant workers on fixed contracts, to labor in the mines or on the farms. When they do, they reside in single-sex Government hostels, sometimes 16 to a room, and are not allowed to bring wives or family members with them. They must return when the contract expires. That there are 3 million such migrants every year is testimony to the difficulty of earning anything more than a subsistence living in the homelands.

There are countless more laws that regulate the black man's working life, laws that prevent him from organizing into unions, from occupying any one of 100,000 skilled jobs reserved for whites, from holding down positions of supervision over whites, and from receiving equal pay.

But a striking feature of the influx laws, and sometimes even the labor laws, is how poorly they work. They are impossible to police. It is estimated that of the 8.7 million blacks living in the "white" areas, some 2 million are there illegally. The population of Soweto, officially 904,000, is thought to be larger than that by half. The number of violations of the pass laws, 250,000 last year, is almost half the annual average of several years ago, partly because enforcement and prosecution is such an expensive and sensitive matter.

The segregation laws do work effectively, and they are rigidly enforced in schools, hospitals, sports facilities, movie theaters, bars, restaurants, beaches, public washrooms, buses, taxis and trains. Although thousands of black workers stream into Johannesburg by train every morning and occupy the city until it turns white again at dusk, there are fewer than 30 eating houses and 161 public toilets open to them in the central city.

The inconvenience and humiliation this causes are commonly voiced. Said one Soweto resident: "If I'm caught short in some parts of Johannesburg, I still have to relieve myself up a lane or at the back of a building. There's nowhere I can go to suit my pocket for a cup of coffee or a meal in pleasant surroundings."

"Where do I eat?" another demanded of a reporter from The Rand Daily Mail. "In one of those disgusting Bantu eating houses run by a white who is likely to insult me in broken English and call me a bloody Kaffir? Ever been to a black cinema? Don't. Some of them show films so old it's a wonder they're not curled at the edges."

Segregation is so implanted in the minds of many people—black and white—that sometimes it extends beyond the law. Several months ago, the white and nonwhite signs were taken off the elevators in an ancient medical building here, but the black attendant insisted on enforcing "lift apartheid" on his own. Now, a taxi fleet owner is pressing a campaign to employ black drivers. The Government has said he is perfectly free to do so, but none of the applicants he has sent to the city's licensing department has passed the tests.

An interracial couple wanted to get married and sought to escape from the country's mixed marriages law, which expressly forbids any such union. They migrated to the Transkei, a homeland that was given its independence last year and is now nominally black-ruled and discovered that the prohibition exists there to.

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## WATERWAY USER CHARGES: MORE FICTION AND FACTS

Mr. DOMENICI. Mr. President, a number of recent misstatements and misrepresentations concerning the issue of waterway user charges have come to my attention recently. Because of the significance of the issue that will be before the Senate when it considers H.R. 8309—balanced transportation for the future—I believe it may be helpful to my colleagues to show how this issue has been distorted by some of the advocates of the barge industry. While I welcome a debate on issues and facts, I truly regret a debate that is built upon misstatement.

One of the more obvious examples occurred recently in a sheet of paper circulated to Members of the Senate by the National Committee on Locks and Dam 26.

FICTION

The National Committee on Locks and Dam 26 says that my amendment would increase all waterway costs by a flat 1 percent of the commodity's value, no

matter how long or short the shipment. It warns that the waterway user fee on a 15-mile movement of fuel oil in Minnesota would be $2,950.

FACT

This overstates the actual impact by a mere 8,700 percent. After the decade-long phase-in of my amendment—in 1990—it is possible that my amendment might add as much as 75 cents to the cost of shipping 1 ton of commodities for 1,000 miles, based on cost estimates prepared by various economists. Since 66⅔ tons of goods shipped for 15 miles, the distance in the Minnesota example cited by the National Committee on Locks and Dam 26, would equal 1,000 ton-miles, 66⅔ tons shipped 15 miles might require a user fee of as much as 75 cents in 1990. Thus, a 3,000-ton fuel barge, moving 15 miles, would produce 45,000 ton-miles of traffic. That means the user charge on such a shipment would run $33.75 as a likely maximum in 1990. Is $33.75 really comparable to the barge industry's $2,950?

I might add that the 1 percent cap in my amendment was offered and adopted by the Senate as a protection for farmers, at the suggestion of several farm-State Senators. It is a cap, not a charge. A simple reading of the Senate bill in June and my amendment No. 1460 to H.R. 8309 shows that clearly.

In addition, I would note that the key to my amendment is that it is related to the level of expenditures. The actual level of user charges will be determined entirely by the level of spending requested and supported by the barge industry itself.

FICTION

A spokesman for the barge industry recently testified before the Senate Finance Committee. Regrettably, his statement was woven with misinformation. He said waterway user charges would produce a severe decline in barge traffic. Another barge representative, Harry M. Mack, president of the Ohio Valley Improvement Association, Inc., has even described my amendment as something that would gravely threaten water transportation on the Ohio.

FACT

Not a single study exists that shows any decline in traffic whatsoever due to a proposal such as contained in my amendment. In fact, under the worst case estimate of the impact of my amendment, barge traffic will grow 41 percent during the decade-long phase-in of user charges.

FICTION

This same spokesman for the barge industry also says that user charges set a precedent for new financing approaches for all parts of the multipurpose water resources management programs, not just navigation.

FACT

This is dead wrong. All other types of identifiable beneficiaries of Federal water resources—those using Federal hydropower as well as irrigation and community water supply projects—contribute significantly toward the repayment of the costs of the project, based on the actual costs of building and operating the project. The sole exception is navigation. And even if my amendment is adopted, navigation would remain more heavily subsidized than hydropower and water supply.

FICTION

Next, this hearing spokesman argues that waterway user charges will cripple the ability of the waterways industry to invest in needed new equipment.

FACT

This is not possible for one very clear fact: the industry now enjoys a special Federal subsidy by which vessel purchases are guaranteed by the Maritime Administration. At last report, the Maritime Administration had some $285,000,000 in guaranteed loans outstanding for the inland barge industry, covering the purchase of 1,207 barges and 94 river tugs. My amendment would not alter this subsidy at all.

FICTION

The spokesman goes on to estimate the net profits of the barge industry at $80,000,000.

FACT

This figure appears to be grossly understated. Just one company, Texas Gas Transmission Co., with less than 10 percent of the Nation's barge business, noted in its 1976 annual report that its Inland Waterway Services Division had an aftertax profit of about $35,000,000, riding the crest of a 24 percent compounded annual rate of profits growth during the preceding 5 years. The problem in obtaining more precise profits on the barge industry is that many of the major barge companies—U.S. Steel, Exxon, Cargill, and Ashland Oil—bury these barge profits in more general categories in their annual reports, making barge profits as such impossible to identify.

FICTION

Then our spokesman goes on to add this:

Obviously cost increases amounting to a third or more of total revenues would have devastating effects and could easily wipe out the barge lines and render useless the federal investment in navigation already made.

FACT

What is heavy about a charge that after 11 years might, in unusual instances, equal 1 percent of the delivered price of a commodity, and by statute could not be more than 1 percent? What is devastating about charges that will allow growth of at least 41 percent over the next decade?

FICTION

Another item is a press release from the American Waterway Operators, Inc., out of Pittsburgh. It starts off by declaring its conclusions are based on a study by the Economics Department of the University of Pittsburgh and the Greater Pittsburgh Chamber of Commerce.

FACT

Yes, indeed, it was sponsored by the chamber, but it was done by an assistant professor at the university, Edward Malloy, in his spare time and does not carry the endorsement of the university or the department. According to the department's chairman:

It is specifically not endorsed by the University. It carries the name of Malloy.

By the way, the Malloy study that I have seen also includes the following quotation, which was somehow excluded from the barge press release:

Such a (waterway users') tax is equitable, since the parties using the public good pay for their use, and the rest of the population (those not using the good) are freed from supporting something they don't need.

FICTION

Another statement I have come across was one that I might best describe as entertaining. It is from a Mr. Frank T. Stegbauer, the chairman of the American Waterway Operators, Inc. Let me quote just a few lines from his statement:

FICTION

"We are a relatively small industry . . ."

FACT

Exxon, United States Steel, Ashland Oil, et cetera.

FICTION

Mr. Stegbauer warns that user charges are intended to reimburse the Government for the moneys spent on improvements to our rivers over the last 150 years and the funds appropriated yearly to maintain them.

FACT

That is dead, flatout wrong. My proposal now, and always has, dealt only with costs in the future.

FACT

But there is one statement buried in Mr. Stegbauer's assessment, with which I totally agree. It is this:

Opposition to a waterways user tax is a difficult position for this industry to take because it lays us open to the charge of selfishness and wanting a "free ride".

No comment.

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## TARGETING ON UNEMPLOYMENT

Mr. WILLIAMS. Mr. President, this past weekend, the Washington Post carried a most provocative editorial entitled "Creating Jobs Is Not Enough" which I would like to bring to the attention of my colleagues. Written by Mr. James L. Sundquist, director of the Brookings Institution's governmental studies program, the editorial points out that Federal policies aimed at promoting new job opportunities and business investment must focus most heavily on those areas where the need is the greatest. Mr. Sundquist argues that we must revise Federal policies that encourage a scatter-gun approach to economic development, or which permit the suburbs to prosper at the expense of inner cities and declining rural areas. He urges adoption of Federal initiatives that "take the work to the workers," and he proposes a more creative use of the tax code to accomplish this objective. Since the Carter administration is putting the finishing touches on its tax reform package which it will submit to Congress, Mr. Sundquist's editorial is particularly timely. The targeting of tax incentives to economically depressed areas, as well as the nature of the tax incentives themselves, should hold an important place in the consideration of tax reform proposals. Equally important, the role of the Tax Code in a

comprehensive national growth strategy demands careful scrutiny. Mr. President, Mr. Sundquist's article furnishes much food for thought, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CREATING JOBS IS NOT ENOUGH

(By James L. Sundquist)

Whenever Washington officials worry about ways to inject life into an anemic economy and reduce unemployment, a vital aspect of the problem usually is ignored. The aim of national policy is not only to promote stable economic growth, difficult as that may be, but also to ensure as far as possible that new investment and job opportunities are targeted at those who need them most.

It makes little economic or moral sense, for example, for Washington to provide equal encouragement for new investment in the outer fringes of Dallas-Ft. Worth, a metropolitan area where the latest jobless rate was only 3.9 per cent, and in Jersey City, N.J., where it was a devastating 11.6 per cent. By what logic should the federal government do as much for an outer suburb of Chicago where there is virtually no unemployment and for San Diego, Calif., where the jobless rate was 9.4 per cent?

While Washington long has had programs to provide direct aid to decaying urban and rural areas, officials have failed to use an equally—and perhaps more—promising way to help accomplish these ends through the tax system. The Carter tax program, according to authoritative reports, ultimately may contain up to $22 billion in tax reductions, some in the form of incentives to encourage business and industrial investment. By making the incentives greater if the investment is placed where the need is greatest, a portion of that investment could be channeled to distressed central cities and rural areas where unemployment has reached appalling levels.

The country has used tax incentives before as a means of directing investment according to national need. During World War II and again during the Korean war, an accelerated depreciation allowance was granted for investment in industries defined as war-related but not for others, and the system served its purpose. In principle, discrimination on the basis of geography is just as feasible as discrimination on the basis of industry group. Drawing the boundary lines between eligible and ineligible locations admittedly involves difficulty, but deciding what industries were war-related involved tough boundary decisions, too.

Indeed, discrimination between prosperous areas and those in need is accepted as a matter of course in other programs. Ever since 1961, depressed areas legislation and emergency public works programs have made funds available only to areas of high unemployment. The Appalachian Regional Development Program, and the kindred regional programs established under the Public Works and Economic Development Act of 1965, confer benefits only on regions of relative impoverishment. It is equally logical to confer higher benefits on areas of need when tax breaks are written into law.

NO EXTRA COSTS

The crucial importance of the tax approach is that it provides an incentive for private investment and private jobs. A shortcoming in existing programs for depressed urban and rural areas is that they are limited to public investment and public jobs. These are useful and necessary in themselves, but they usually do not lead to self-sustaining, permanent growth. Sometimes public investment that spruces up a community makes it so attractive that private investment follows—but not often enough or quickly enough to serve the purpose.

Experience also tells us that offering loans on favorable terms to private firms—as through the proposed "urbank" that is reportedly being designed—will not do much to influence locational decisions either. Small, marginal firms may find the credit helpful, but big companies do not lack for access to normal credit markets. What is needed to lure more of their investments into distressed urban and rural areas has to be something more tangible—a direct cash benefit. The subsidy could be provided in various forms, but since the proposal about to be offered by President Carter is to give a direct cash benefit to all firms through the tax route, introducing a differential rate into that benefit would appear to be the quick, easy, simple way to do it.

This need not cost the Treasury anything extra. The present investment tax credit is 10 per cent. Whatever additional tax credit the administration concludes is necessary to spur investment can be provided either as a flat rate or as a sliding scale. To increase by half the present benefit, for instance, a flat rate of 15 per cent could be offered or a range could be established—perhaps from 12 per cent in areas of relative labor shortage to 20 per cent in areas of heavy unemployment—that would produce the same volume of additional investment at approximately the same total cost to the Treasury.

Moreover, to employ tax policy in this manner would represent an important beginning toward carrying out the intent of Congress in the Urban Growth and New Community Development Act of 1970. That law committed the United States to adopt a "national urban growth policy" that would seek to stem urban and rural decline. No specific policy was proposed by either President Nixon or President Ford, but there is every sign that President Carter is taking the statutory mandate seriously. His administration is preparing the biennial report on growth policy called for by the act, and a White House conference on balanced national growth and economic development is scheduled for late January.

All of the major industrial countries of the world—except the United States—have explicit and well-established national growth policies designed to steer investment to where it is most needed. "Take the work to the workers" is the slogan in the European countries, and direct subsidy to investors is the universal means.

This is seen as the way to preserve and restore communities, to minimize hardship on individuals and families, and indeed to serve the goals of maximum employment and production with minimum inflationary consequences.

But "taking the work to the workers" is exactly what is not happening in the United States today. Our concentrations of unemployment and underemployment are in the inner cities, in inclining rural areas and in old industrial centers. But most new jobs are being created in the thriving suburbs of major metropolitan areas.

WASTE, HARDSHIP AND INFLATION

This is what happens in the absence of a national growth policy—and it is undesirable for four clear reasons.

First, such a pattern of growth is wasteful. If a new plant is put in a green field 20 or 30 miles from the center of St. Louis or Chicago or Philadelphia, a whole array of public facilities has to be created at public expense—while facilities that already exist in the center of the city or in the declining small towns of the hinterland are underutilized. The result is urban sprawl instead of compact settlement, and sprawl is synonymous with waste—waste of resources, waste of energy, waste of productive agricultural land.

Second, such a growth pattern is inhumane. It forces people to uproot themselves and move—often at great financial loss—from where they are to where the jobs are put, or to spend hopeless hours trying to commute. Housing is not necessarily available to low-income blacks and other minority group members who might seek to relocate from the cities to where the jobs are. As for interregional migration, experience both in this country and in Europe shows the great reluctance of workers to leave their native areas. When the Labor Department some years ago tried subsidizing the relocation of unemployed iron miners from northern Minnesota to steel centers of the Middle West, the experiment failed: The workers drifted back. As for commuting, the new jobs located on—and beyond—the beltways that girdle the metropolitan centers usually are inaccessible by any form of public transportation to the unemployed of the urban ghettoes, and they are beyond the commuting range of most of the rural unemployed as well.

Third, such a growth pattern is inflationary. If most of the country's growth takes place in areas of relative labor scarcity—and the outer suburban fringes of major metropolitan centers are such areas—as the economy expands, labor shortages and bottlenecks appear relatively quickly, costs rise and price increases follow. By contrast, if the jobs are taken close to where the unemployed live, labor surpluses are absorbed and the economy can move significantly closer to full employment before shortages occur and inflationary forces are set in motion.

Fourth, such a growth pattern is destructive of communities—originally the communities of rural and smalltown America and now the great metropolitan central cities as well. The national interest in maintaining a viable New York or Detroit or Cleveland need hardly be argued.

THE LURE OF THE SUBURBS

So why, if there are all these consequences, do investors choose the suburbs? There are many reasons. Land costs are lower than in the city. Low, rambling buildings with spreading lawns are possible. Business transportation problems may be eased. The air is cleaner, the crime rate lower, the environment more pleasant. The available labor force may be better trained or more tractable.

But the benefits to individual firms have to be weighed against the economic and social costs borne by employees, taxpayers and the country at large, and the previously noted public costs—waste, hardship, inflationary impact, destruction of communities—surely outweigh the private benefits. The object of the tax differential, then, would be to provide enough subsidy to an investing firm that takes its jobs to the workers to offset the gains it would otherwise realize by locating on the suburban fringe.

It may be, of course, that the forces that lead entrepreneurs to avoid investing in distressed areas, particularly in the most rundown central cities, would provide too powerful in most cases to be offset by the scale of the tax differential. If this proved the case, the government would have to decide whether to incerase the differential, at least for the most neglected areas, or possibly abandon the objective altogether. In that case, the Treasury would have lost nothing, since there would be no extra tax breaks if firms did not bite.

Yet there is great diversity among American cities, and in all likelihood they would respond quite differently. Some probably would benefit from a differential of any size; others might be beyond rescue no matter how large the subsidy proffered. The answers to these questions cannot be known in advance. They can be learned only by enacting something and finding out what happens.

The rural areas and old industrial centers that would benefit are a diverse lot, too.

Rural distress seems to have dropped out of the news of late while the South Bronx and Detroit are the centers of attention. But only a few years ago it was the poor of Appalachia and the Mississippi Delta who captured the nation's sympathy. Indeed, it was the plight of the rural areas that originally gave rise to the agitation for a national growth policy that culminated in the act of 1970, and the statute seeks rural-urban as well as city-suburban balance. "Taking the work to the workers" has to mean steering investment to wherever the unemployed and underemployed are concentrated, whether the locale be a declining metropolitan core, a New England mill town, a Pennsylvania mining center that has lost its basic industry, or a county in the Southern Black Belt.

This is not only the most equitable approach, but it is also the basis for the political coalition needed to pass such a measure. The prospects for aid on a scale necessary to turn the tide in the cities would be hard to come by if the cities and their supporters tried to go it alone. But a coalition of the cities with the rural and small town areas that are fellow sufferers could well prove irresistible. Even a good part of suburban America might support a city-rural coalition dedicated to claiming the bulk of new investment for their communities; not all suburbanites are in favor of headlong, unrestrained growth.

Two Senate votes a few years ago show both the power of the tax differential idea and the strength of the city-rural coalition.

One of those votes came in 1969. President Nixon had recommended that the 7 per cent investment tax credit then in effect for manufacturing investment be removed. This passed the House, but when it reached the Senate floor, Sen. Ted Stevens (R-Alaska) proposed an amendment to retain the tax credit for rural areas of "substantial out-migration." Even though the idea came as a surprise at that time, it carried the Senate by two votes. It was lost, however, in the House-Senate conference.

The second vote came two years later, when Nixon reversed himself and recommended that the 7 per cent investment credit be restored. Again the House supported the President, and again an amendment was offered on the Senate floor. This time, Sen. James Pearson (R-Kan.) proposed that a differential of 3 per cent be added for most rural areas, and the bill's sponsors accepted the idea. Sen. Abraham Ribicoff (D-Conn.) then demanded equal treatment for central cities with unemployment over 6 per cent. This was approved, 56 to 24, and the combined Pearson-Ribicoff amendment was adopted by the overwhelming vote of 60 to 19—better than 3 to 1. But the bill's managers refused to support it on the ground that the projected revenue loss of $750 million—the extra incentive in this case was to be placed atop the general investment credit—was more than the Treasury could stand, and the idea was again lost in conference.

No such proposal has been voted on since, but there is every reason to believe the potential for a powerful coalition still exists. This coalition, it should be noted, cuts across the current Sunbelt-Snowbelt argument. Both North and South have their areas of unemployment and underemployment that would be eligible for any special tax concession, and their flourishing metropolitan fringes that would not.

THE EUROPEAN EXPERIENCE

In time, the United States might find that tax concessions are not the simplest and most effective means for influencing the locational decisions of investors. That has been the experience in Europe.

There, tax devices were used initially when experimentation with growth policy began in earnest in the post-World War II years. But the European countries, and Canada as well, have long shifted their emphasis to direct cash grants made by the government to the investing firm as more direct, more open, quicker and in the end less costly. The standard grant for locating an investment in an area of labor surplus seems to have settled down at 20 per cent of the cost of the investment, but gradually the countries have developed sliding scales of subsidies for different areas—a kind of zoning according to the degree of need—and the rate many range from 10 or 15 per cent to 25 or 35 per cent or even more in a few cases.

The nine countries of the European Community together are spending an estimated $17 billion a year on locational incentives. There is recurrent debate, of course, about the fine points of policy—what areas and what kinds of enterprises should be eligible and for how much. And policies change from time to time. But on the principle itself there seems no longer to be any debate anywhere in Europe.

The consensus is that the policies have been successful. Now jobs that otherwise would have been located on the fringes of London or Paris or Milan have been steered to Scotland and Brittany and the impoverished Italian South. Three independent analyses by British economists of that country's program several years ago credited investment grants and other related measures with creating 30,000 to 70,000 additional jobs a year in development areas. One of the studies concluded that the policy measures had cut the north-south migration flow within the country by half, reduced the national unemployment rate by one-half of 1 per cent and increased national output by $500 million a year.

Whatever the economic analyses show, the political judgment in Europe is that the benefits of the locational incentive systems far outweigh the costs. Every major political party in every country supports the programs. All the parties agree that it is a proper function of government to attempt to influence and guide the geographical location of investment—to put the jobs where, in the interest of the whole society, they are most needed.

## TRIBUTE TO ALLEN GARLAND

Mr. JAVITS. Mr. President, the death last week of Allen Garland, a veteran trade policy official in the Department of Commerce and the Office of the President's Special Representative for Trade Negotiations, has not gone unnoticed.

Words have been placed in the public record to the effect that his career in Government, his service to America, is a quiet and effective answer to those who question this honorable occupation.

Allen Garland was a Washingtonian; Government service came naturally to him. He started early in a modest civil service job. World War II made him an infantryman, where he served his Government in the front lines of Europe.

Then the great American postwar effort to revitalize world trade occupied his energies through the 1950's and 1960's and until his retirement. Allen Garland was instrumental in training a whole generation of trade specialists—among them Jacques Garlin of my staff—who are serving today in key positions both in and out of government.

Today's open trading system is mute testimony to the efforts of Allen Garland and others like him in many countries who labored diligently to break down the barriers to the international flow of goods. We do well to take note of that as we extend our sympathy to his loving family and his many friends.

## ASSISTANT AID ADMINISTRATOR ABELARDO VALDEZ' VIEWS ON UNITED STATES-LATIN AMERICAN RELATIONS

Mr. HUMPHREY. Mr. President, in a recent speech in San Antonio, Tex., Mr. Abelardo L. Valdez, Assistant Administrator for Latin America at the Agency for International Development, outlined some of the major issues affecting U.S. relations with Latin America. In my judgment, this is one of the most articulate and refreshing presentations that I have seen in recent years on the state of our relations with our Western Hemisphere neighbors. Accordingly, I commend this speech and accompanying press article to my colleagues.

Mr. President, I ask unanimous consent that the speech and news article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDRESS BY ABELARDO L. VALDEZ

Thank you very much for that warm introduction.

I am very happy to be here in San Antonio today and to have this opportunity to meet with you. As some of you may know, I was born in Floresville, just 30 miles down the road, so this is something of a homecoming for me.

It is a pleasure to be speaking in Congressman Henry Gonzalez' district. I know he would like to be with us today—he has always had a deep interest in activities that would increase communications with our neighbors and produce the kind of economic progress that would help people on both sides of the border. Unfortunately, duties in Congress made it impossible for him to come.

It is also a pleasure to participate in such a well-conceived and well-organized conference. I think those who have worked so hard to organize it, Joe Bernal and Rick Bela and many others, deserve a salute for their tireless and productive efforts.

I think it's very appropriate that this kind of conference be held in South Texas. People down here still have that old rural understanding of the importance of neighbors. We know you have to get along well with your neighbors and that sometimes you have to depend on them.

I think President Carter, who also comes from a rural tradition, understands that well. I believe it's one of the reasons he's put a new emphasis on our relations with our close neighbors, with Mexico and the other nations of Latin America and the Caribbean. If we can't get along well with nations close by, we can't expect to be trusted by those farther away.

We've got so much in common—the United States and Latin America. That's a fact which struck me with particular force last month when I traveled to Mexico and the Caribbean with Andrew Young, our Ambassador to the United Nations. In Santo Domingo, the capital of the Dominican Republic, we visited the home of Christopher Columbus' son, and the church where Columbus himself was once buried. I had to marvel at the spirit of those first explorers, and I thought of the ones who, a few years later marched through Texas and the Southwest to forge a new civilization out of the merger of the Spanish and Indian peoples.

Now almost five centuries later, there are

at least 16 million citizens of Hispanic descent in the United States, and by the end of the century it is predicted we will constitute the largest minority group in the country. The United States is already the fourth largest Spanish-speaking nation in the hemisphere.

In this rich cultural resource, we have a natural bridge for understanding and cooperation with Latin America. The hispanic community in this country is just now beginning to play what I think will soon become a very significant role in making the foreign policy of the United States, not only toward Latin America, but toward the rest of the world as well.

In our nation's relations with Latin America, however, the Hispanic community offers a special quality. We are the heirs of that Hispanic civilization first established in the new world over four centuries ago.

It was a civilization which always had a hemispheric vision, which saw unity despite the boundaries of rivers and mountains and vast spaces. From colonial days, through Simon Bolivar's plans for federations to the founding of such institutions as the Pan American Union and the Organization of American States, up to the ideas of present-day statesmen like President Daniel Oduber of Costa Rica, President Carlos Andres Perez of Venezuela, the vision of hemispheric cooperation and harmony has never disappeared.

I think we in the United States are now rediscovering the importance of that vision. This conference in San Antonio comes at a moment which, in retrospect, could mark an historic departure—a new day—for the United States in our relations with our Western Hemisphere neighbors.

I would like to speak to you for a few minutes about the shape that new day might take, and why I think it is overdue. For several years now, our government has largely ignored Latin America, unless we perceived some threat to our interests there. When we did, we sometimes sought to intervene in ways that ran counter to our own traditions and values, thereby giving credence to the charges of our worst critics. The result has been a growing cynicism about the motives of our policy both in Latin America and among our own people. Under the Carter Administration, we are now seeking to change that.

The first item of business on our new agenda with Latin America is the Panama Canal. When President Carter signed that treaty earlier this month, he capped 13 years of efforts by Americans and Panamanians to arrive at a just and fair solution to a problem that has festered for three quarters of a century. This treaty applies to our foreign relations the lessons of our domestic experience. Our political and economic system has survived and prospered because we have generally kept it sufficiently open to all segments of American society. In the new treaty, I think we guarantee the security of the Canal by an arrangement which insures the Panamanians have an important stake in its operation. But this treaty has an importance that goes beyond our relations with Panama. The peoples of the hemisphere are watching to see how we handle this issue. They see it as the touchstone of our relations with them. It can, therefore, be the foundation for a new relationship with Latin America. Or it can be the stone over which we stumble. I'm confident that the people of the United States and their representatives will support the ratification of the treaty. There are other ways we can build in addition to the treaty. The strong interest in cooperation with Mexico which this conference symbolizes is a significant part of a rediscovered vision embracing our relations with Latin America.

Let me briefly refer to two aspects of the economic relationship between the United States and Latin America. Then I would like to sketch, from my viewpoint as the Administrator of our government's foreign assistance efforts in Latin America, the elements of U.S. policy I think necessary for the new era in relations with our hemispheric neighbors which we are now entering.

Our economic and trade interests in Latin America are very significant. There is a true interdependence among ourselves and our southern neighbors. Latin America and the Caribbean provide many of the most vital resources we import. Our primary source of bauxite and a substantial source of our oil lie within this hemisphere. Our neighbors send us copper, coffee, sugar, lumber, and countless other products crucial to our economy.

Latin America, in turn, is the third largest market in the world for our exports.

Our exports to Latin America have increased dramatically in recent years. Between 1968 and last year, they more than tripled, from $5 billion to $17 billion annually. We now export more of our goods to Latin America than to the rest of the developing world combined, and almost as much as we export to the European Economic Community.

The value of our direct private investment in Latin America is over $20 billion, which represents almost 70 percent of our investment in the entire developing world. Earnings on our investment in Latin America return more than $2 billion annually.

While those figures are impressive, they pale beside the tremendous potential of the future. A developed and prosperous Latin America would be an almost limitless market for American goods and services. It is, therefore, very clearly in our interest to assist Latin America toward that future goal.

For the present, we are bound together as much by problems as by promise. The problems of underdevelopment, of unemployment and lack of opportunity which ravage many Latin American and Caribbean societies spill over into our own society. There has been great concern recently about the undocumented workers who come to this country, not only from Mexico, but from other Latin American nations and the Caribbean as well. If this is a controversial and emotional issue in this country, it is perhaps even more so in those. I was in Mexico last month shortly after President Carter's proposals on illegal immigration were announced. There and in other countries, the press and the political leaders displayed great interest in our plans for dealing with the immigration question. To a significant extent, the future path of their nations will be affected by how we handle the issue. For many of these countries, migration of the poor is a safety valve, easing social and economic pressures at home. There are serious fears that if migration were closed off, domestic social upheavals would soon follow. Unemployment in some of these countries runs 30 percent and higher.

The question of undocumented workers then is not solely a domestic police problem. It is a foreign policy problem and it is a problem of underdevelopment—the lack of opportunity for employment in the rural and urban areas the undocumented workers are fleeing. Their migration to the United States in search of work will continue until there is a greatly-spurred development of rural and urban areas in Latin America and the Caribbean. It will continue unless there is a more equitable distribution of income in those countries, and unless there is better access to the markets of the developed countries for Latin America and Caribbean products.

During his visit to Washington earlier this year, President Lopez Portillo said that the United States had the choice of importing either Mexican goods or Mexican labor. Unless Mexico's balance of trade situation improves (and in 1975 its trade deficit was over $3.5 billion), we can expect that the number of undocumented workers coming to the United States will increase.

We need to encourage more opportunities for trade and investment. I don't believe that most people, if they had a choice, would want to leave their own country. But unless they can find work, there really is no choice.

For those reasons, I believe we must find ways to cooperate ever more closely with Mexico, our nearest neighbor and the source of approximately 60 percent of the undocumented workers who cross our borders each year. I believe our two governments should consider jointly-financed capital investments that would have a direct job-creating impact in the areas of northern and central Mexico from which most of the undocumented workers come.

Investment in the infrastructure of rural areas, particularly irrigation, would produce labor-intensive projects that provide significant numbers of jobs. In addition, according to the World Bank, each billion dollars of investments in village and rural industries could create between 100,000 and 200,000 permanent jobs.

In expanded trade and expanded investment lie the long-term solutions to the problems of poverty, and lack of opportunities not only in Mexico, but throughout the hemisphere. But there is another necessary component. We must make sure that a significant part of our foreign assistance program, whether bilateral or multilateral, is directed to those areas which need it most. The benefits of trade and investment generally take too long to reach those who suffer most from underdevelopment, and will only marginally assist the poor unless national policies encourage both economic growth and equitable distribution of income.

We have seen in our own experience with programs of foreign economic assistance the need to more carefully target our efforts. For many years, we relied on a trickle-down theory of economic assistance. We thought that if we helped build a dam or a modern highway, the benefits would find their way down to the poor, the unemployed and underemployed. We have now concluded that the benefits of our assistance in fact too often stayed at the top of the social structure, and even widened the gap between rich and poor.

The challenge of reaching the poor through development in Mexico are not unique. We have seen apparent progress in most Latin American countries as measured by such traditional indicators as per capita income. But rather than balanced development, what has happened in Latin America is the creation of islands of development in a sea of poverty.

Located in industrial areas, these islands have done very little to improve the lives of the rural, and even the urban poor. Forty percent of the population of Latin America, at least 115 million human beings, are forced to exist on less, often substantially less, than $500 a year.

The evidence tells us that there has actually been a growing imbalance in the distribution of the benefits of the growth Latin America has enjoyed in recent decades. Massive poverty and malnutrition, and inadequate health, education and employment opportunities continue to exist in Northeast Brazil, the Andean highlands, the urban slums of many Latin American cities, and in most of the rural areas throughout the hemisphere. As measured by income, employment, caloric intake, infant mortality, life expectancy, debilitating disease, literacy and fertility rates, almost half of the Latin American population has enjoyed very little, if any, of the benefits of national economic growth. The gap between rich and poor has grown wider, not more narrow.

In such a situation, repression too often follows. As the poor are driven to protest, to seek some more equitable distribution of the benefits of growth, they are met with harsh responses. Much of Latin America is now

governed by stern military regimes and in several countries there have been systematic violations of the human rights of their citizens. The connection is clear between the economic imbalance many nations display, and a pattern of human rights violations which serve to repress protest about those imbalances.

Out of this grim and unfortunate experience has come a new direction to our foreign assistance efforts. In 1973, Congress gave the Agency for International Development a clear mandate to work directly with the poor and to make sure the benefits of our assistance got to them. Our programs are now concentrated in three key areas—food and nutrition, family planning, and health, education and human resources, and most of our programs are focused in the rural areas which have been neglected in the race to industrialize.

Under the Carter Administration, there is a renewed determination that our assistance should be provided directly to the people most in need of help, and that we give priority to assisting those nations which are committed to helping their poor.

The countries which receive our assistance are encouraged to formulate development policies which benefit the majority of their citizens who are poor, rather than the few who are well off.

By encouraging such efforts, we hope to increase the commitments of governments in Latin America to strategies of economic development which guarantee equity. The United States cannot solve the problem of absolute poverty in Latin America. It must be done by the people of Latin America themselves, and by their governments. But if we can encourage and support those governments which make growth with equity a commitment, then the goal of satisfying at least the minimal human needs of Latin America by the year 2000 may be within reach.

At the same time, we are striving toward the parallel great goal of the protection of human rights, not only in Latin America but around the world.

A concern for human rights is clearly one of the major hallmarks of the Carter Administration. In the past, leadership on this issue came from Congress, from groups of concerned citizens across the country, from churches and international organizations.

Now that concern is echoed forcefully in the White House. Jimmy Carter, during the presidential campaign, touched a yearning among the American people that this nation stand again for honorable causes in the world. He came to office with a moral commitment to the protection of human rights.

That commitment is a permanent one. It cannot be just a fad, the issue of the year, to be replaced next year by something else. I am confident that the concern for human rights which has characterized the first nine months of this Administration will continue to be its hallmark, and will justify the faith President Carter has kindled among the American people.

We see a very clear connection between our assistance programs and human rights. Our conception of human rights must not be limited to political rights—it should include the rights to be free from hunger, disease and unrelenting poverty as well as from political repression.

I don't think any of these rights—either political or economic—can really be achieved unless there is some movement away from dictatorial governments and towards some form of government where the people participate in the economic and political decisions which affect their lives.

Human rights, both political and economic, cannot be guaranteed by international pressure. In the long run, they can only be defended by the citizens of a country who have a voice in how that country is governed. Dictators can announce reforms in the face of international pressure. But reforms introduced by a dictator's word may be revoked by another word. We are pleased to see any progress on human rights, but I think we hope to see something more than a momentary easing-up, something more than a strong man changing the name of his secret police force. Our ultimate hope should be to see a turn away from dictatorship.

For these reasons, I see the goals of human rights, economic development, and a political voice for the people as inseparably linked. That perception should guide the foreign policy of our nation.

The forging of these basic alloys of human freedom into a tempered tool for social progress, has challenged other men in other times, but at no moment in our history as neighbors have the voices of our people cried out with more urgency. Never have their aspirations so challenged our talents. Never has their need so humbled us in its magnitude.

As the leaders of commerce and of government, we must now respond to the clear mandate given us by our people on both sides of the fabled Rio Bravo who, in spite of some difference in language, speak in similar accents when they ask us for freedom in this hemisphere—freedom of action . . . freedom from want . . . and the freedom to shape the conduct of their nation's affairs more consistently with their own well-defined concepts of basic justice and of fair and generous dealings among their people and among the nations of the Americas.

Simon Bolivar, whose yearning for unity and brotherhood in this hemisphere I earlier invoked, would surely have challenged us to no less an undertaking.

Muchas Gracias.

Thank you very much.

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AT LAST: REFRESHING VIEW ON LATIN AMERICAN POLICY

(By Ben F. Meyer)

WASHINGTON.—One of the best, down-to-earth outlines of President Carter's U.S.-Latin American policy has emerged from an unexpected source. Aberlardo L. Valdez, who administers the U.S. government's aid programs from Latin America, speaks with refreshing candor of that area's failures and ours in dealing with problems south of the border.

"Our government largely ignored Latin America for years but we are now entering a new era in our relations with the region," he says.

And Latin America, without a program of balanced development, "has created islands of development in a sea of poverty."

Nor does it make any sense to express dislike of a regime by cutting off economic aid for the poverty-stricken. "Help for the poor should be one of the last cords to be cut, not the first."

He doesn't hesitate to mention problem countries by name. In a thrust at Chile: "We like to see progress on human rights but we hope for something more than a strong man changing the name of his secret police force."

Valdez questions the value of the "trickle-down theory of economic assistance. Too often, the benefits stay at the top and even widen the gap between the rich and poor. Forty per cent of Latin America's population, or about 115 million people, are forced to exist on less than $500 a year."

As for dictator regimes: "The connection is clear between economic imbalances and a pattern of human rights violations which serve to repress protest about those imbalances."

Not surprisingly, he considers an agreement on the Panama Canal issue "the first item on our new agenda with Latin America."

Latin America's poverty cannot be solved by the United States," but by the people of the area and their governments. We can encourage those governments which are trying."

What about Valdez, the man? Born in Floresville, Texas, of Mexican descent, he is far from the cartoonists' version of a backward fellow in a huge sombrero, dozing against an adobe hut. He is described as one of the brightest young men (34) in government, and one of the best educated—Harvard and Baylor (law), Texas A and M (civil engineering) an expert on international trade, commodity law and hemisphere affairs. He writes for scholarly journals.

President Lyndon B. Johnson apparently discovered his talents early and brought him, as a young lieutenant, to the White House as a military aide, took him with him to LBJ's summit conference in Uruguay in 1967. Valdez later served with distinction but not much public notice on legal staffs of U.S. development agencies.

The Carter administration rediscovered him while Valdez taught a seminar at Harvard early in 1977 on critical issues of U.S.-Latin American relations.

Valdez is proud of his origins and of the role of 16 million U.S. citizens of Hispanic origin, says that by the year 2,000 they will become the largest minority group in the country.

As for Latin America, he considers it now of great importance to the United States, the third largest market in the world of our exports, an important source of many vital imports and a growing region with future potentials so great they are hard to imagine.

U.S. direct investment in Latin America is over $20 billion, or "almost 70 per cent of our investment in the entire developing world. Earnings on our investment in Latin America return more than $2 billion annually. While those figures are impressive, they pale beside the possibilities of the future." Even if viewed only selfishly, "it is very clearly in our interest to assist Latin America toward that future goal."

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## STATEMENT OF SENATOR WENDELL H. FORD, DEMOCRAT, OF KENTUCKY, REGARDING HOME INSULATION

Mr. FORD. Mr. President, one of the key components of our national energy plan is to provide for an adequate level of insulation in 90 percent of American homes by 1985. Clearly, this is a very ambitious goal that can be met only if Government agencies, business, and consumer groups join together to prevent homeowners from being victimized by shoddy workmanship, unsafe product and materials, and unfair and deceptive energy-saving claims.

On September 15 and 16 of this year, I held 2 days of hearings on this subject. The wide variety of witnesses who testified at those hearings were unanimous in the belief that our national energy conservation goals will not be met unless consumer confidence is maintained at a high level. The Consumer Product Safety Commission is presently considering a petition filed by the Metropolitan Denver District Attorney's Consumer Office requesting mandatory safety standards for home insulation. I recently advised Chairman Byington of the CPSC that if the Commission fails to act to protect

the public from unsafe insulating products, I will introduce specific legislation directing the Commission to so act. In light of the fact that the CPSC's own Denver field office advised the Commission in June of 1975 that improperly treated cellulose insulation posed a fire hazard, I believe that Commission action is long overdue.

Mr. President, on a more encouraging note, Chairman Michael Pertschuk of the Federal Trade Commission recently advised me that the FTC is preparing to move on several fronts to protect consumers from being victimized when purchasing home insulation. I heartily congratulate the Federal Trade Commission for its quick and decisive action on this most urgent problem. I ask unanimous consent that Chairman Pertschuk's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL TRADE COMMISSION,
*Washington, D.C., October 28, 1977.*

Hon. WENDELL H. FORD,
*U.S. Senate, Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR FORD: I think it important to alert you to three related actions in the energy area the Commission decided to pursue this week. All three are designed to deter acts or practices that take unfair advantage of heightened consumer concern with energy conservation.

The first involves a rule to assure that consumers receive adequate useful information about the performance of insulating materials. The proposed rule, which will be the subject of hearings in the near future would require manufacturers of insulation (and certain other sellers) to tell consumers how effectively their products insulate, based upon a simple performance feature—the "R-value". While there is much to be learned in the rulemaking process, and different issues to be resolved, I am pleased that the Commission is moving with relative speed to address this problem of national importance.

The other two actions are enforcement-related. In the first, the Commission will use Section 5(m)(1)(B) of the Federal Trade Commission Act (Sec. 205 of the Magnuson-Moss Act) to notify over 300 manufacturers and retailers of insulation of certain prior Commission determinations that it is an unfair or deceptive act or practice to exaggerate the likely energy savings from insulation to make any energy related claims without adequate substantiation, or to fail to disclose latent safety hazards associated with the installation of a particular type of insulation. The Commission will use its compulsory process authority to determine if those prior determinations are being violated. If they are we intend to seek civil penalties in federal district court.

The third energy initiative involves false and misleading energy savings claims in advertising for appliances and other devices. We have directed staff to watch these claims closely to subpoena substantiation materials from advertisers where questionable claims are being made. Where we have reason to believe that seriously misleading claims are being made, we intend to seek injunctions, under Section 13(h) of the Act, as well as administrative complaints against those advertisers.

I welcome your comments on any of these three initiatives. In particular I invite your participation in the rulemaking proceedings. Any questions or inquiries you may have can be directed to me, or directly to the Bureau of Consumer Protection, which is handling the proceeding.

Sincerely,

MICHAEL PERTSCHUK,
*Chairman.*

## PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD, the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
*Washington, D.C., November 2, 1977.*

In reply refer to: I-9791/77ct.

Hon. JOHN J. SPARKMAN,
*Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78-4, concerning the Department of the Army's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $10.6 million and support costs of $1.2 million for a total estimated cost of $11.2 million.

Sincerely,

H. M. FISH,
*Lieutenant General USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.*

TRANSMITTAL NO. 78-4

(Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act)

(i) Prospective purchaser: Israel.
(ii) Total estimated value:

| | [in millions] |
|---|---|
| Major defense equipment* | $10.6 |
| Other | 1.2 |
| Total | 11.8 |

(iii) Description of articles or services Offered:

[Deleted] rounds of 81mm (M374A3) ammunition, [deleted] rounds of 81mm (M301A3) ammunition, and [deleted] rounds of 60mm (M83A3) ammunition.

(iv) Military department: Army.
(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.
(vi) Date report delivered to Congress: November 2, 1977.

*As included in the Munitions list, a part of the International Traffic in Arms Regulation (ITAR).

## NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary.

Joseph N. Novotny, of Indiana, to be U.S. marshal for the northern district of Indiana for the term of 4 years vice James W. Traeger.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, November 10, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

## INITIATIVE CONSTITUTIONAL AMENDMENT

Mr. ABOUREZK. Mr. President, several members of Initiative America, the public citizen group dedicated to the adoption of the initiative process at the national and State levels, recently returned from a 6-week, 5,000-mile tour of the Midwest. They traveled in a newly renovated school bus, which is fully equipped with a printing press, law library, and all the material necessary to carry out a public education campaign on the initiative process.

The bus visited Ohio, Illinois, Wisconsin, Missouri, Kentucky, and Indiana. Their purpose was to publicize the issue and educate the public. Their hope is that the 27 States that presently do not have the initiative process will choose to adopt it. They also hope to encourage grass roots support for the National Initiative.

This trip was the first of many and the press response to it indicates the popularity of this issue. Initiative America is ready to go out and help people around the country win this reform of our political process.

I have chosen a sample article of the many that were written about the bus tour. It should give an indication of the enthusiasm that was generated.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Columbus (Ohio) Dispatch, October 22, 1977]

TOUR IS PROMOTING RIGHT OF CITIZENS TO PASS LEGISLATION

(By Robert Albrecht)

When a legislature fails to act, citizens themselves must have the power to act, ac-

cording to a spokesman for a Washington, D.C., group seeking the right of federal initiative.

John Forster, director of Initiative America, said citizens ought to be able to propose and pass national legislation.

His group, formed in February, is promoting a federal constitutional amendment that would bring that right into the hands of the public.

The device works out well on the state level, Forster said. He said 22 states have the lawmaking ability and it is "used in great moderation."

Questions on the use of steel leghold traps and instant voter registration on the Nov. 8 Ohio ballot are examples of the way statewide initiative works, Forster said.

In a similar way, the national initiative would provide the public with drect access to federal lawmaking, an element that is missing from federal governmental process now, he said.

Forster said it was his group that approached U.S. Sens. James Abourezk, D-S.D., and Mark Hatfield, R-Ore., last spring and asked them to introduce the proposal to Congress, which the two senators did in July.

The Senate Judiciary Subcommittee on Constitutional Amendments will hold hearings on the proposal (Senate Joint Resolution 67) in December, Forster said.

He was in Columbus on the last stop of a 5,000-mile, seven-state tour in an old schoolbus outfitted with office equipment.

"This is the beginning of a growing national movement. In the months to come we intend to reach millions of Americans with our Initiative Bus," he said.

His group has members in 42 states who have supported Initiative America with contributions, Forster said. Their only purpose is to increase public awareness of the initiative process at all levels of government.

In March, the city government of Washington, D.C., approved a bill for initiative, referendum and recall. The people will vote on it in November, and if the charter amendment is approved, the Congress will have to consider it, Forster said.

If the citizenry approves the proposal it will be difficult for Congress to reject it. And if the Congress goes along with the expected citizen approval, Forster said, the body will be on record as favoring the concept when discussion of the national question arises.

"It has worked well in practice. The public can be trusted. The public remains an untapped resource for common sense solutions to national issues," Forster said.

## PUBLIC SECTOR INVESTMENT—AN ESSENTIAL COMPONENT OF A NATIONAL DOMESTIC DEVELOPMENT BANK

Mr. HUMPHREY. Mr. President, on October 4 and 5, Congressman WILLIAM MOORHEAD chaired hearings of the Economic Stabilization Subcommittee of the House Committee on Banking, Finance and Urban Affairs on the need for a National Domestic Development Bank. I have been arguing for the past 10 years that our municipalities are in serious need of such a mechanism and I applaud Congressman MOORHEAD'S initiative in launching legislative hearings on this important issue.

One witness, Eugene Foley, former Assistant Secretary of Commerce, outlined the need for a National Domestic Development Bank in order to increase economic activity in both urban and rural areas. What is important to understand is that private investment is essential to assist declining areas, but the burden of growth cannot be put totally on the business sector. A simultaneous public investment is needed to maintain and upgrade the public infrastructure. What Mr. Foley emphasizes is that without investment by the public sector, even by giving direct cash grants to the business community, economic development would not be initiated. Without essential public services, that is, roads, sewers, utilities, what good will constructing a building do?

Private investment decisions are strongly influenced by public investment and any measures that will aid public capital investment will likely lead to economic development. In that the municipal bond market has not been an effective source of funds for the public sector, an alternative source must be created. It is for this reason that the development of the bank is proposed. It would be an effective alternative source of funding. Mr. Foley states,

Our cities and municipal governments, whether large or small, should have a place to go for funds, just as the countries of the world can go to the World Bank. Our local and state governments should have the choice of issuing bonds or borrowing from a financial institution set up to deal with their needs and problems.

What should be realized is that this sort of financing has been effective for international development and thus could be a viable institution for domestic development.

It is for these reasons that I see the creation of the National Domestic Development Bank as an effective institution which would aid in alleviating the increasing problems of urban and rural areas. Sincere effort should be made to create the bank as soon as possible.

Mr. President, I ask unanimous consent that Mr. Foley's testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF EUGENE FOLEY

Mr. Chairman, and other distinguished members of the Subcommittee, it is my pleasure to appear before you this morning to speak about a bill to create a National Domestic Development Bank. As we all know, this is a piece of legislation conceived by my very dear friend Senator HUBERT HUMPHREY. A fine legislator who has a habit of anticipating needs and problems and devising sensible governmental procedures and institutions to deal with needs and problems. It may take some time to get these legislative solutions adopted, but eventually his thoughts and ideas have been accepted. It seems to me that the time has come for the idea of a National Domestic Development Bank.

It is my pleasure to support the concept embodied in this bill, which I understand you Mr. Chairman have introduced here in the House. I formerly served as the Assistant Secretary of Commerce with responsibility for administration of the Economic Development Administration and so I have had considerable experience in economic development projects and problems. In my experience with large development projects in Oakland and Brooklyn, I found that it is absolutely necessary to work with a broad perspective and with a broad variety of tools—not all of which are limited to traditional "economic development" or "assistance for private enterprise" tools. This bill provides a broader look, a broader attack on the problems of economic development because it provides for assistance to public capital investment as well as private investment. Then too it provides a location for technical assistance that will make investment decisions and development decisions by local governments and state governments more realistic and efficient.

Successful economic development of a city or a rural area or of a declining area, whether urban or rural or for that matter suburban, depends on the presence of a number of factors. The availability of credit is only one factor. Equally as important, perhaps more so, is an appropriate (and educated) workforce; a rapid, comprehensive, and well maintained transportation network; a functioning system of water and sewer treatment; adequate electrical and other utility service; a functioning communications system; now days, we often require a functioning pollution control system; and finally, also, a tax system which is not confiscatory. You will notice that these factors for the most part relate to public investment, not directly to the ability to raise capital for private facilities.

What I am trying to get at Mr. Chairman, is that a program which only provides a method of raising capital to build a building for a business at low cost to the business, is not sufficient. Because if you put that building in an area lacking a workforce with appropriate skills, lacking roads, lacking water, sewer and utilities, no economic activity of lasting significance would be generated. Even if you gave the businessman a direct cash grant, so that he had no capital costs, under these circumstances you would get no economic development.

These deficits in factors vital to economic development exist in a variety of geographical areas and regions throughout this country. Not only in cities, not only in rural areas, but in small towns and even in rapidly growing bedroom suburbs.

This is another virtue of the National Domestic Development Bank legislation, because it is not restricted to urban areas, it is not restricted to only the areas with the most severe problems. It recognizes the wide need throughout the country for economic prosperity.

I have some expertise in the measures the government can and has taken to encourage private economic development. Perhaps we can discuss some specific examples of successful stimulus. We have had some successes. But before we do that, I want to again emphasize that private investment decisions depend on public investment. Virtually any measure which will aid public capital investment will aid economic development. The reduction of interest costs associated with public facilities, whether through a subsidy, or merely because the municipal market is stabilized, will aid private economic development. The fact that more types of investors can be attracted to public investment will aid, ultimately, private economic development.

Let me comment on one aspect of reduced annual costs to municipalities—the term of the debt. As the debt is lengthened, the annual yearly cost goes down. Our local governments have a relatively short debt structure. This is true even for capital projects. We can lengthen the term of the debt without serious consequences because the facility will last 40 years—probably much longer. A 10 year term for a 60 year facility is not sound developmental financing.

Finally Mr. Chairman, I want to suggest that the National Domestic Development Bank is needed, if only to do equity for our local governments. Our cities and municipal governments, whether large or small, should have a place to go for funds, just as the cities of the world can go to the World Bank. Our local and state governments should have the choice of issuing bonds or borrowing from a

financial institution set up to deal with their needs and problems. We should not disadvantage our own population in comparison to the rest of the world. And conversely, if international developmental financing works, our domestic developmental financing should work.

Again Mr. Chairman and members of the Subcommittee, I want to thank you for giving me this opportunity to appear before you.

## CONFEREES AGREE TO PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977

Mr. BAYH. Mr. President, I am pleased to report that the House-Senate conferees met to discuss their differences in the Senate- and House-passed versions of S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977. After a full and extensive conference, the House and Senate agreed to report favorably back to our individual bodies for further consideration and favorable passage of this important and needed legislation which will fill several voids in current Federal law. There is currently no Federal statute that prohibits the use of children in the production of materials that depict explicit sexual conduct. The conference bill would prohibit the production of such materials for this purpose if the materials involved were to be mailed or otherwise transported in interstate commerce.

Similarly, there is presently no Federal statute prohibiting interstate trafficking in boy prostitutes. The conferees would extend the Mann Act provisions against juvenile female prostitution to include juvenile males.

The conference bill will strengthen present obscenity statutes to provide much more severe penalties for the distribution and sale of obscene materials that depict sexual conduct by children.

The conference bill will prohibit the transportation, sale, or distribution for sale of material depicting sexual exploitation of minors, when such materials are obscene.

Mr. President, today we are considering S. 1585 as reported from the House-Senate conference. As a cosponsor and conferee on this legislation, I wish to urge my colleagues to vote in favor of its immediate passage. This legislation would be the most effective Federal response to the problem of sexual exploitation of our children. The bill is tough and effective. But most importantly, it is clearly constitutional. S. 1585 can be upheld by the courts and can serve as the basis of successful prosecutions resulting in the reduction of sexual exploitation of children.

Pornography and obscenity statutes have been the subject of heated debates for many years. Recently, there has been an increased focus on the use of children in live performance and in the production of pornographic materials depicting sexually explicit conduct. This is an area of great personal concern to me.

Problems regarding the prohibiting of the publication, sale, or distribution of pornographic materials involve serious constitutional questions of our first amendment right of freedom of speech and the press. We must be ever watchful that in our efforts to control the most offensive pornography we do not infringe on these important constitutional rights. However, I condemn the sexual exploitation of children for any purpose, including commercial purposes and strongly urge that existing criminal laws prohibiting child abuse and contributing to the delinquency of minors be more vigorously enforced.

To the extent that additional legislation is required, however, S. 1585 has my strong support.

Mr. President, as I had reported on another occasion to the Senate, recently a most reprehensible and despicable activity has been initiated in my State of Indiana. I refer to the nationwide promotion of "Mr. and Miss Nude Teeny Bopper Pageant" at the Naked City Nudist Camp in Roselawn, Ind. This sordid "event" was scheduled for August 27, 1977. I was utterly repulsed at the idea of this contest which was to feature nude children between the ages of 8 to 16. Parents were to be paid $10 to enter their children, $170 was to be given out in prize money, $10 was to be given to each contestant and spectators—for an admission price of $15—were solicited to take pictures of the nude children. Thousands were expected to attend.

On first being notified of this sordid enterprise, I immediately contacted the offices of the State attorney general and the Newton County prosecutor to express my grave concerns about this particularly gross form of child abuse. I am pleased to relate that the attorney general asked the judge of the Newton Circuit Court to issue an injunction restraining this activity. A preliminary injunction order was issued restraining the owner of Naked City from displaying these nude children before an adult paying audience and specifically enjoined the party from holding this contest until a hearing was held. Presently, a hearing is scheduled in Jasper County at which time an attempt will be made to amend the temporary restraining order to a permanent restraining order so that no further activities of this sort can be held. It was argued that the challenged activity constitutes a public nuisance and outrages the public decency at large. I cannot agree more with this argument. Thousands of Indiana residents have joined in signing petitions aimed at launching another legal challenge.

A contest of this sort panders to those interested in child pornography and sex and is exploitive of children and potentially damaging to their mental health—I can imagine the trauma a young girl or boy might experience while parading naked in front of a crowd of leering strangers. The nude contest would also seem to provide an excellent opportunity for child pornographers to meet potential stars. The question comes to mind—if a parent would make a child participate in a nude contest for a chance of winning $100 (or just for the $10 that any participant receives) what would they have the child do if the stakes were higher?

It is clear that freedom of expression and the right to privacy are among our citizen's distinctive attributes and nudists should be permitted to indulge in their pastime in privacy. Naked City is not, as ads I have seen, a traditional family nudist colony—run in the proper sexual atmosphere. Naked City events in the past have drawn criticism by publicizing their events nationwide and inviting outsiders—who are not nudists and who remain clothed while at Naked City—to pay their way into the camp to view and film the nudists. In the past years many of the participants in the Naked City contests have reportedly been models and strippers looking for publicity. The advertisements for Naked City are blatantly sexual and suggestive of orgies and, while adults have the right to sexual freedom, this is hardly the appropriate atmosphere for a young child.

I cannot help but feel that, if this event took place, many of the children would be unwittingly exploited to satisfy the appetities of spectators.

Mr. President, regrettably State and local laws which cover this type of conduct often cannot be enforced. Such live performances constitute a particular form of child abuse and should be prohibited. Conduct associated with live performances extends beyond State or local jurisdictions and involves widespread use of the mails, television, newspapers, radio, and telephones for promotion and solicitation of a potential audience and participants.

My amendment to S. 1585, which passed this body unanimously, prohibited certain activities relating to live performances using minors in sexually explicit conduct. The House version contained no comparable provisions. However, the House version of the Mann Act contained provisions which would have overlapped with my amendments, and as such I agreed with the conference majority that in light of the fact that the conference substitute provisions contained language that the conferees agreed in most cases would cover the sexual exploitation of minors in live performances as embodied in my amendment, I would withdraw my specific language which would be incorporated in the Mann Act provision. Thus, whoever transports, finances in whole or part the transportation of or otherwise causes or facilitates the movement of any minor in interstate or foreign commerce, or within the District of Columbia or any territory or other possession of the United States with the intent: First, that such minor engage in prostitution; or second, that such minor engage in prohibited sexual conduct, if such person so transporting, financing, causing, or facilitating movement knows or has reason to know that such prohibited sexual conduct will be commercially exploited by any person, shall be guilty of an offense under this section and shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

Mr. President, I consider it a privilege to be a member of the Juvenile Delinquency Subcommittee—being its former chairman for 7 years—and to follow the leadership of the new chairman, the Senator from Iowa.

This particular problem, of using minors in live performances exhibiting sexually explicit conduct, is designed to

be dealt with by my amendment as incorporated into the Conference Mann Act provisions.

Mr. President, one particular concern that created my desire for these amendments involved a nudist colony in northwestern Indiana.

I, frankly, guess I am old-fashioned, but I cannot understand why adults wish to frolic around together in large numbers in their birthday suits. But, inasmuch as some of them do, and if they do that privately, the Constitution protects their right to do so.

But the promoter of this nudist colony, interestingly enough called Naked City, in northwestern Indiana, decided that he was going to conduct a nude beauty contest in which the participants would be boys and girls ages 6 to 16. Their parents would be paid for letting them parade in front of a paying audience of spectators with cameras. The winner would receive $100. The advertising went across State lines.

Now, this particular amendment is designed to get at that particular kind of conduct, where we are talking about the sexually exploitive conduct for commercial gain of boys and girls in the nude under the age of 16 in live sex shows.

Mr. President, at this point in the RECORD I would like to ask unanimous consent to put into the RECORD a colloquy that Senator CULVER and I had during the debate of S. 1585 in the Senate on October 10, 1977, when my live performances amendment was unanimously adopted.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

Mr. BAYH. I would like my colleague, the floor manager of this bill, to help me resolve a question or two I have about the proper language.

I do not want to get into an area that is unconstitutional. I do not want to reach protected expression, but I want to make certain that the Senator, as a principal floor manager of this bill, shares my belief that the wording that is used here of "sexually explicit conduct" would cover the type of situation that I am referring to that is occurring up in Naked City at that nudist colony.

Is it the Senator's understanding that according to the court's interpretation "sexually explicit conduct" includes, by definition, the lewd display of genitals or the pubic area of a person under the age of 16.

Mr. CULVER. That is correct.

Mr. BAYH. Is it the Senator's understanding that if a hawker or promoter attempts to promote a live performance in interstate commerce in which boys and girls under the age of 16 are paraded and displayed nude, where adults are asked to come and take pictures, that would be a lewd display of the genital and pubic areas, and that thus it comes within the sexually explicit conduct definition under section 2251 of this bill?

Mr. CULVER. That is correct.

Mr. BAYH. Am I correct in my understanding that in the definition section of the bill, commercial gain is tied into the definition of "promoting" to include "advertising for pecuniary profit?"

Mr. CULVER. That is correct.

Mr. BAYH. Mr. President, extensive hearings have been held by the Senate Subcommittee to Investigate Juvenile Delinquency on the problems of child pornography and the conferees have presented to our bodies a measure designed to deal with it. I think it is clear that we now have a measure that will go a long way toward eliminating an abuse that no society—but least of all our society—should tolerate. I wish to urge my colleagues to vote in favor of its immediate passage so that we can present the President with this legislation before the end of the 95th Congress, 1st session.

Mr. President, Federal, State, and local law enforcement efforts must maintain a delicate balance in order to curb child pornography. The legislation I cosponsored, and which we will vote on today, will fill a void in Federal law and will attack the production of materials depicting children in sexually explicit conduct and further, my amendment will curb the use of minors in live performances exhibiting sexually explicit conduct as a form of child abuse and exploitation. I believe this legislation will help to arouse our collective conscience, which will in turn lead to policies and behavior more sensitive to our child victims. We must have a regard for the general tone of our society and be especially watchful and discourage events that tend to lower that tone.

## DEFENDING THE CANAL IN THE AGE OF TERRORISM

Mr. HUMPHREY. Mr. President, my support for the new Panama Canal treaties is predicated upon my belief in the need for the United States to make the necessary mature adjustments to the realities of the modern-day world. In other words, if our policies are such that they encourage cooperation, why risk the prospects for confrontation, particularly when such confrontation would involve high costs to this country?

The debate over the new Panama Canal treaties is fraught with considerable emotion and much misinformation. It is time we come down to earth and realistically assess what these treaties give us and the potential costs we avoid by the Senate gving its advice and consent to ratification.

Therefore, it was with considerable interest that I read a column in the November 1 Baltimore Sun, written by Arthur S. Collins, Jr., a retired general whose last field assignment was as Deputy Commander in Chief, U.S. Army in Europe. General Collins also served a tour in Panama during his military career.

Entitled "Defending the Canal in the Age of Terrorism," the article by General Collins places the debate over the new treaties in its proper perspective. I think it is particularly relevant to note General Collins' following perception:

Consider how a few dozen terrorists confounded and tied up a strong, economically healthy West Germany; examine the cost to the British of trying to enforce a peace in Northern Ireland; recall the destruction in Lebanon when terrorists and guerrillas got out of control. From a military point of view, none of these situations compares to the problems the United States would encounter if it had to defend the Panama Canal unilaterally.

This is the era of the extremist, the terrorist, the guerrilla. Extremists with terrorist tendencies abound in the Free World and the Third World. Defeat of the treaty would provide the cause and the slogans they need to create conflict in Panama where there is a strong sense of nationalism. Guerrillas would be easy to recruit and the local populace would be sympathetic and provide sanctuary, support, and good intelligence . . .

General Collins goes on to point out what would be in store for the United States should we continue a presence in the Panama Canal Zone in the absence of acquiescence of the Government of Panama and the people of Panama.

If nothing else should have been learned from our experience in Indochina, it is that if one does not have the full support of the populace, disaster is inevitable.

Yet, the sloganeering surrounding the debate on the new treaties does not serve the best interests of the United States nor the taxpayer. Who will pay the price should the treaties fail in the Senate? It is the average American—the average taxpayer. It is the average American whose son could be called upon to serve in a senseless conflict that could have been avoided. And what will we accomplish by this measure of last resort? The end result could be the same as it was in Vietnam.

I urge my colleagues to give careful consideration to the analysis of General Collins. Is this the scenario we really want to bring home once again to the American people? Or do we avoid confrontation and in the process gain the cooperation of the Panamanian people to assist us in protecting an important asset?

Mr. President, I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEFENDING THE CANAL IN THE AGE OF TERRORISM

(By Arthur S. Collins, Jr.)

WASHINGTON.—Consider how a few dozen terrorists confounded and tied up a strong, economically healthy West Germany; examine the cost to the British of trying to enforce a peace in Northern Ireland; recall the destruction in Lebanon when terrorists and guerrillas got out of control. From a military point of view, none of these situations compares to the problems the United States would encounter if it had to defend the Panama Canal unilaterally.

This is the era of the extremist, the terrorist, the guerrilla. Extremists with terrorist tendencies abound in the Free World and the Third World. Defeat of the treaty would provide the cause and the slogans they need to create conflict in Panama where there is a strong sense of nationalism. Guerrillas would be easy to recruit and the local populace would be sympathetic and provide sanctuary, support, and good intelligence. Cuba would almost surely offer these "democratic freedom fighters" training cadres and light weapons from Soviet arsenals.

The Canal Zone is 10 miles wide, about 51 miles long, and covers an area of 647 square miles. Defense of so small an area appears to be a minor problem for a world power. However, the realities of geography, international agreements, and today's world make it most difficult to defend this area and respect the rights of Panama. A dense jungle with triple canopy growth covers much of the Zone and makes surveillance of the open and unobstructed Canal Zone borders ineffective. Trails are few, and numerous

streams and water obstacles make troop movement difficult. This is an ideal area for guerrilla activities. So much for the area of operations. How about the most likely enemy?

Small, lightly armed forces, operating from just outside the Zone, could suddenly emerge from the jungle to attack canal facilities or ships in the canal. From the Canal Zone borders to any target in the Zone—a set of locks, school, housing area, power plant, or whatever the target might be—is at most five miles. Hostile groups could strike from either side of the Zone so selection of targets and timing of attacks would be made easy for guerrillas operating from secure bases in Panama. Ammunition, arms, radios and other equipment could be hidden in the small villages that dot the borders of the Canal Zone.

Portable rockets and mortars would complement the small groups attacking U.S. installations. Locks and maintenance and support facilities would be key target areas and all are within range of these weapons; attacks would be frequent. A rocket hitting a school, fuel farm, or tanker could be devastating.

A determined terrorist organization would plan attacks on Madden Dam and Gatun Dam. Damage to these dams would create serious problems in maintaining enough water in Gatun Lake to permit passage of ocean-going ships, but they are difficult targets for ambush and booby traps.

Canal Zone installations can all be defended if enough manpower is assigned to the task; there are, however, so many historical examples of well defended facilities destroyed by small, well trained raiding parties, that any planned defense of the canal must recognize the reality. It is difficult and costly to be always on the defensive and always on the alert. The United States as a nation does not respond well to prolonged aggravating situations which are not quickly resolved. Day-in and day-out, U.S. troops and civilians will suffer a few casualties, and the numbers will mount.

In brief, a small well directed hostile group would have an enormous capacity for inflicting damage on U.S. citizens and embarrassing the United States. Their attacks would be disruptive, sometimes damaging, often deadly, and most difficult to stop.

Such a situation would be less likely to occur if the Panamanian government had a direct hand in the continued operation of the canal. They could stop these attacks far better than a "gringo intruder" from the north. In fact they would have to, because if the canal is closed Panama will lose the revenues from tolls provided for in the treaty, and many Panamanian citizens would be out of work. If the treaty is not ratified, however, the Panamanian government might not have much control, nor much interest.

Patriotism is not unique to the United States; emotions run strong in small nations too, and resentment of the United States is long standing. So it is not unlikely that the government of Panama would stand back; after all, it wouldn't be their property under attack.

This is the critical fact: Without the active support of the Panamanian people and government, the only way guerrilla and rocket attacks could be curtailed—curtailed, never eliminated—would be for U.S. Forces to invade Panama's territory to drive guerrillas away from the zonal borders and thereby make them less effective. The resulting military venture would be a nasty chore for which the American people are not suited by temperament or inclination.

Various estimates have been made on the size of U.S. forces required to protect the canal if the treaty is not ratified. These estimates are dependent on the degree of support the United States could expect from Panama. Realistically, we should assume that if the treaty is not approved, the United States can expect little support from Panama or its people.

If hostilities erupt, the most likely scenario would be a series of small attacks continuing over a period of several years, with the unpleasant duty of defending the canal falling on U.S. troops. Under these conditions, the *smallest* number of troops for a minimally effective defense of the zone would be 100,000. If Panama were invaded it would take a lot more.

There is no need to belabor the point. The canal could be defended, but its continued operation could not be assured. The jungle is not a healthy place to be and for troops always on the defensive, not knowing friend from foe, it is a corrosive and frustrating environment. U.S. troops will suffer casualties and world opinion will be against them.

Like Vietnam there will be no heroes. Both the nation and the armed forces, especially those on the ground, will pay a bill that will include large, hidden economic and psychological future payments.

Even were the treaty ratified, terrorists could still commit acts of terrorism. However, in that case, the Panamanian government would use its police, security agencies, and armed forces to oppose the terrorists. The Panamanian people would not long have sympathy for those who have put them out of work by closing their canal.

If Panama asked for U.S. military help it would be gladly given and gratefully received. If the canal were closed by hostile action, world opinion almost certainly would be on the side of the Panamanian government. These are all important advantages that flow from Panama's active involvement in defense of the canal.

It is time those determined to "save" the canal set aside their emotion, study the treaty, consider the alternatives, and decide from whom and for what they are "saving" the canal.

## PROPOSED INTERIOR DEPARTMENT REGULATIONS FOR THE SALE OF EXCESS LANDS IN RECLAMATION PROJECTS

Mr. ABOUREZK. Mr. President, the South Dakota Farmers Union has long been in the forefront in the fight to preserve the family farm. The president of the South Dakota Farmers Union, Ben Radcliffe, has been an effective and tireless fighter for this goal.

Recently, Mr. Radcliffe wrote to me on behalf of the South Dakota Farmers Union to urge me to support the proposed regulations for the sale of excess land in Federal reclamation projects. In fact, the South Dakota Farmers Union, as well as the National Farmers Union, would like to see even stricter regulations. The National Farmers Union, for instance, has endorsed a bill, introduced by myself along with Senators HASKELL, NELSON, and METCALF, which would comprehensively reform reclamation law. The bill would also do something the regulations cannot—create an acreage equivalency formula so that farmers with poor land can be allowed a larger acreage limitation than those with good land.

Ben Radcliffe's letter is an important one, for it shows, contrary to what some people have been saying, that the acreage limitation is consistent with family farming, and is supported by people who believe in and represent family farmers.

I ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SOUTH DAKOTA FARMERS UNION,
*Huron, S. Dak., October 24, 1977.*

Senator JAMES ABOUREZK,
*New Senate Office Building,*
*Washington, D.C.*

DEAR JIM: As you know, there has been considerable controversy surrounding Secretary of Interior Cecil Andrus' ruling enforcing the 160-acre limitation in federal water projects.

As the leading voice of family agriculture here in South Dakota, I want you to know that the South Dakota Farmers Union stands firmly behind Secretary Andrus' position. This position has been an important part of our policy program for many years and was one of the most crucial facets of our continued support for the Oahe Irrigation Project.

Our position on the 160-acre limitation is as follows: We urge the strict enforcement of the 160-acre limitation per individual or 320 acres for man and wife in governing the use of water in federal irrigation projects.

The position of National Farmers Union is similar to that of the South Dakota Farmers Union, although NFU urges some increase in the acreage limitations for family farm units that are not entirely on Class One lands.

The original intent of the 1902 Reclamation Act was to increase farm production in the Western states and at the same time foster growth of family farming in that area. We believe that new family farms established in federal irrigation districts in California and other western states is highly desirable and will be of great benefit to rural communities.

It is important that you realize that much of the acreage affected by the Secretary's ruling is not now in the hands of family farmers. It is owned by corporations such as Standard Oil and the Southern Pacific Railroad. Very few if any individuals who could be classified as family farmers will be adversely affected by this ruling.

I am greatly distressed that the American Farm Bureau—which claims to represent the interests of its farmer members—has seen fit to come out in opposition to this ruling. What bothers me even more is the misinformation now being spread by Farm Bureau spokesmen here in South Dakota and elsewhere.

Contrary to what Farm Bureau has been saying—this ruling will not limit a family farm to just 160 acres or even 320 acres. The ruling as explained by Bureau of Reclamation Chief Keith Higginson would allow a man and wife to own 320 acres of land in a federal irrigation district. In addition they could own another 160 acres for each child in their family and could lease an additional 320 acres. That means that a family of six could operate a 1280 acre irrigated farm. That's more than needed for a family farm in either South Dakota or the Central Valley of California.

The members of Farmers Union urge you to support continued enforcement of the 160 acre limitation. This move is a progressive step toward putting the Federal Government on the side of family farmers and we don't think it is a step which we should retreat from.

With best regards,
Sincerely,

BEN H. RADCLIFFE,
*President.*

## THE FOREST SERVICE AND CITIES

Mr. HUMPHREY. Mr. President, one of nature's greatest gifts is trees. Trees are among our most important resources

for shelter and fuel. They grace the Earth's landscape with beauty that changes with the seasons. One cannot help but be impressed by their quality of enhancing the physical and spiritual welfare of mankind.

The Forest Service is the institution within our Government charged with protecting this most important resource. As the members of this Chamber know, this agency has exercised its duties with the highest professionalism. The Forest Service is challenged with protecting 187 million acres of trees, a job that it has done well since its establishment in 1905.

The Forest Service's excellence is virtually unparalleled throughout the world. While this expertise is well established, it simply is not effectively utilized in areas where it is most needed, namely America's cities.

On April 29, National Arbor Day, the senior Senator from New York (Mr. JAVITS) took a long step toward remedying this imbalance by introducing the Urban Trees Act of 1977, S. 1426. I am a cosponsor of this legislation, which would authorize the Secretary of Agriculture to make grants to urban areas for tree planting and general arboricultural activities. These grants would match 100 percent of what cities may receive in tree planting contributions from their residents and others and 50 percent of the public funds allocated by cities for the planting of trees. This bill would authorize $10 million for these grants.

Mr. President, if this bill becomes law, we will have taken a major step down the road toward improving the environment of American cities. This bill will not only provide urban Americans a more beautiful environment, but one with cleaner air and less noise, two of the many effects of trees in cities.

While S. 1426 makes resources available, the Senate has wisely taken another step to assure that the knowledge and expertise of the Forest Service become more accessible to cities and towns. Congress made this approach a matter of national policy in 1972 by amending the Cooperative Forestry Management Act of 1950 to provide assistance to cities. Unfortunately, this farsighted provision was not adequately funded until this spring when I amended an appropriations bill to provide essential funds for technical assistance. For fiscal year 1978, the Congress appropriated $3.5 million to carry out this provision.

This 1972 amendment provides authority to the Forest Service to match funds provided by local and State governments for technical services related to urban forestry needs. The Forest Service is emphasizing the need for local governments to do effective planning. However, to a lesser degree, funds provided through this authority will be useful in eradicating insects and in combating disease. This is particularly important in my home State of Minnesota which is losing large numbers of elm trees as a consequence of the dreaded Dutch Elm disease.

Funding of this amendment has facilitated assistance from the Forest Service to local governments with urban tree programs. This will strengthen the ability of local governments to intelligently integrate new tree planting programs in America's cities as well as successfully protect those trees that remain, thereby improving the lives of city dwellers. Trees, as we should know, are complex botanical organisms with complex requirements for growth and survival. Knowledge of which trees to plant and what these trees require is vital to effective urban tree programs.

Mr. President, I am looking forward to favorable Senate action on S. 1426 early in the next session of Congress. By that date we should also have before us strong evidence concerning the success of activities carried out according to the technical assistance provision. With both, Mr. President, the Congress will have the fundamentals of a promising urban forestry program.

## PROMISES: WHICH WAY WILL JIMMY TURN NEXT?

Mr. McCLURE. Mr. President, some very serious questions are quite properly being asked by the American public about the validity of so-called campaign promises. Indeed, many of us in the Senate have addressed ourselves to this question from time to time.

I am concerned that a double standard is emerging, in that there is a difference between a promise and a campaign promise, the latter to be dismissed as a mere bartering token by which one purchases votes. I totally shun that notion, and I firmly believe that a promise made during a campaign is a statement of position to be taken to mean that a candidate will stand behind that statement and do everything within his or her power to see that the promise is fulfilled.

I doubt there were ever so many campaign promises as those which we all heard during the last Presidential election. Many of the campaign promises made by our current President were certainly considered, at the time, to be valid statements of position. Now many Americans are beginning to wonder what to believe and what not to believe.

I think this is a very serious matter, and one that affects the very basics of our representative form of government. I am happy to see that in my home State, members of the news media are giving this some attention.

I would like to call the attention of my Senate colleagues to a recent newspaper column in the Idaho Statesman. Mr. Steve Ahrens, who I personally regard as a very thorough, fair, professional journalist, has taken some effort to place this whole question of campaign promises by our President in perspective. I ask unanimous consent that Mr. Ahrens' article of October 30 be printed in the RECORD, and call it to the attention of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROMISES: WHICH WAY WILL JIMMY TURN NEXT?

(By Steve Ahrens)

News item: Jimmy Carter has promised that the federal government will not try to usurp control of Western water by the individual states.

Let's see now, I want to make sure I have this straight.

The man we are depending on to safeguard the economic life blood of the West is the same man Labor was depending on to push through the Humphrey-Hawkins employment bill that was so crucial to their interests, through higher price supports, and the same man who told voters in natural gas-producing states he would support deregulation of natural gas prices—right?

Jimmy Carter's campaign promises have not been something voters in the words of TV's Baretta, "can take to the bank."

If Carter treats this promise like some of his campaign promises, maybe we should post armed guards along our irrigation ditches.

Because the man who told voters "I'll never lie to you" has compiled a greasy record of broken campaign promises, lack of support for congressional leaders working on his programs, and switches on controversial issues.

There's a maxim in politics that you criticize the act, not the man, I would not lightly break that rule, because it's a good one. Most politcians are working sincerely toward goals they and their supporters believe in—whether you agree with those goals or not.

And I rarely criticize a political philosophy, because its practitioners have as much right to their beliefs as the supporters of any other political "faith."

But I draw the line at politicians who, face-to-face with a voter, make promises to win support—then go to Washington and violate those promises. This is a moral, not a philosophical, objection.

Throughout the 1976 campaign, Carter promised tangibles like retaining control of the Panama Canal, a balanced budget within his first term, support for deregulating natural gas prices, and increased farm price supports "equal to at least the cost of production."

But once in office, he supports treaties relinquishing control of the Canal, has opposed deregulation, proposed lower farm supports, and submitted the usual deficit budget.

He promised intangibles like more effective government, a more moral government, more honesty and honor.

Whether Carter has "broken" these promises is much more a matter of opinion, but the actions of his administration in the Bert Lance affair, Jody Powell's attempt to "get" a senatorial opponent, phony vouchers for staff travel that never took place, the president's free rides in Lance's bank airplanes, and his highly selective promulgation of "human rights" for some humans, but not for others—all these cast a shadow over his pledge of governmental purity.

Pardon some Carter critics if they see little difference between his actions and the actions of other politicians whom he castigated throughout the campaign.

He made a lot of other promises, too—promises to balance the budget, cut the unemployment rate to about 3 per cent, reduce inflation, pass national health insurance, and establish a separate Department of Education. It's too early to give up these goals or to say he "lied" in making those promises, but it's not at all too early to say that he stands little chance of achieving most of them.

His campaign boast that he could, within his first four years, balance a federal budget that has been out of kilter for four decades displayed shocking naivete in a presidential candidate. It's a laudable goal, one nearly all of us fervently support, but a man qualified to be President of the United States ought to realize the difficulties—both practical and economical—of such a sudden turn-around.

I'm willing to accept the probability he honestly wanted to balance the budget, and

therefore was not "lying" when he promised to do so. But it is pointless to argue whether it is worse to be a liar or a fool.

It is not Carter's philosophy that I criticize. He has the same right to that as any other Democrat or Republican or Libertarian. My objection is to his use of campaign promises as legal tender to "buy" his election, then his desertion of those stands.

Voters are accustomed to hearing politicians make promises, even empty promises. But it's entirely different for a candidate to completely turn his back on a campaign pledge, as Carter did on the issue of deregulating the price of natural gas, or raising farm support prices.

As a contrast, it was interesting to compare Carter to Sen. Frank Church during the 1976 presidential campaign. Church offered a record in government which you could accept or reject on the basis of your assessment of his 20 years in the Senate. Ever the consummate orator, he clearly and understandably outlined his ideas about what the U.S. President ought and ought not to do.

His promises were within the realm of the possible, and I have no doubt he would have worked hard to carry out those promises. Most important, he judged what he wanted to accomplish in the light of what he could expect to accomplish, and did not indulge in political daydreaming that deluded voters earnestly looking for better government.

The next Carter turn-around may be on the controversial B1 bomber. Candidate Carter opposed it, President Carter shot it down—but now there are reports he is changing his mind about the strategic value of the bomber. He could request funding to convert the F111 into the role the B1 would have filled, or he might resurrect the B1 itself.

In either case, more of his supporters feel he has misled them on this issue.

The only way a candidate can convince conservatives he is a conservative, and liberals he is a liberal, is to promise someone something he can't deliver. Carter is paying the price for these broken or ignored promises, as evidenced in the latest Harris Poll which shows a steady decline in public confidence in his ability to handle most key issues facing the country—especially economic, foreign relations and energy issues.

The criticism of Carter is by no means confined to his political opponents. The polls show deep concern and disappointment amongt both Republicans and Democrats.

But not even those opponents can take more than passing satisfaction in his problems, because the last thing the country can afford is a vacillating, ineffectual president.

## OPEC SPECIAL FUND CONTRIBUTIONS TO THE UNITED NATIONS DEVELOPMENT PROGRAM

Mr. HUMPHREY. Mr. President, last month a little noticed, but highly important, event took place with the announcement that the OPEC special fund had made a special contribution of $20 million to finance four United Nations development program projects.

In past years, Congress has been critical of the lack of financial support provided by OPEC to UNDP. Therefore, I think it is highly appropriate to call to the attention of my colleagues this latest effort at attracting OPEC funds into multilateral development efforts.

What is particularly unique about the OPEC special fund contribution is that it will fund four projects in four different regions of the world. Briefly, the projects are as follows:

To the Central American Energy Programme, which consists of five countries, $1.5 million.

For the development of the Niger River Basin, linking nine West African countries in efforts to exploit the hydrological potential of the seventh largest river in the world, $5 million.

In technical support for regional offshore prospecting in East Asia, designed to increase technical and scientific knowledge of mineral potentials in near-shore, offshore and adjoining oceanic areas, $2 million.

For the development of Red Sea and Gulf of Aden fisheries, intended to upgrade fishery operations and insure effective exploitation of the area's marine resources, $4.2 million.

In my estimation, UNDP Administrator Brad Morris, as well as the contributors to the OPEC special fund, are to be commended for this highly significant development. It is a tribute to the ability of UNDP to carry out vitally important development projects that the Director-General of the OPEC special fund selected this multilateral development agency to implement these programs.

Mr. President, I ask unanimous consent that the announcement of the OPEC special fund contribution for these UNDP projects be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPEC SPECIAL FUND PROVIDES $20 MILLION FOR UNDP-SUPPORTED PROJECTS

(Agreement Signed Today Includes Financing of Four Projects for Energy and Food Development.)

Under an agreement signed in New York today, the OPEC Special Fund is providing a grant of up to $20 million for projects carried out by groups of co-operating countries in all developing regions with support from the United Nations Development Programme (UNDP).

Announcing the agreement, the Director General of the OPEC Special Fund, Dr. Ibrahim F. I. Shihata, said this was the first time that the OPEC Special Fund had channelled funds through the United Nations Development Programme.

Mr. Bradford Morse, Administrator of UNDP, signed the agreement with Dr. Shihata on behalf of UNDP.

Four regional projects designed to increase energy and food production will be the first to benefit from the OPEC Special Fund grant, accounting for $12.7 million out of the $20 million total. Other inter-country or global projects will be identified in the future to receive the balance of $7.3 million.

The four selected projects involve a total of some 30 countries across the world—in Central America, in West Africa, in East Asia, and in Arab countries. They were chosen from a list of projects in need of financing which UNDP submitted to the OPEC Special Fund earlier this year. UNDP will contribute approximately $3.2 million toward their implementation. In addition, the four projects will receive support from the Governments involved and, in some cases, supplementary financing from bilateral and/or other multilateral sources.

The four projects and the amounts they will receive from the OPEC Special Fund through UNDP are as follows:

Central American Energy Programme, which assists five countries in defining joint policies and actions for their co-operative energy programme ($1.5 million);

Development of the Niger River Basin, linking nine West African countries in efforts to exploit the hydrological potential of the seventh largest river in the world ($5 million);

Technical Support for Regional Offshore Prospecting in East Asia, designed to increase technical and scientific knowledge of mineral potentials in near-shore, offshore and adjoining oceanic areas, and to augment national prospecting capabilities ($2 million);

Development of the Red Sea and Gulf of Aden Fisheries, intended to upgrade fishery operations and ensure effective exploitation of the area's marine resources ($4.2 million).

In signing the agreement at the New York offices of UNDP today, Mr. Shihata commented as follows on the significance of the new arrangements:

"Through the facilities of UNDP, the OPEC Special Fund is helping to build new kinds of partnership, in several ways:

"First, all four projects so far selected for financing involve regional technical co-operation among the participating countries, within an established framework for their continuous joint consultation and action.

"Second, each project is working to achieve shared use of valuable common natural resources—including energy resources in three of the projects—which offer high promise of a better life for the millions of people of the 30 or so countries concerned.

"Third, this agreement represents an important link between the OPEC Special Fund as a development finance institution and the UNDP as a main instrument of the United Nations system for co-operation with groups of countries to identify and meet their development needs. In this respect, the UNDP with its network of over 100 country offices and its collaboration with all operating agencies of the United Nations system is unparalleled as an organization for development programming and technical co-operation".

In reply, Mr. Morse stated that:

"The OPEC Special Fund is itself an important instrument of international co-operation, combining the financial contributions of its member developing countries for the benefit of development in other developing countries.

"To help make best use of the OPEC Special Fund grant, the services of the UNDP have been mobilized first to propose and now to help carry out the selected projects. The regional groups of countries participating in the projects have also joined forces, in some cases for several years already, to seek common development objectives in the sectors concerned.

"This kind of 'triangular co-operation'—between a financing source, a source of technical advice, and regional or national development authorities—offers much potential for future technical co-operation among developing countries".

All four of the regional projects the OPEC Special Fund has selected for support will help to further technical co-operation among developing countries (TCDC). TCDC refers to programmes and/or actions undertaken by two or more developing countries, independently or with support from international organizations or developed countries, for the purpose of contributing to their mutual development. Increasingly endorsed by developing countries as a key means through which they can build collective self-reliance, and figuring prominently in the UN General Assembly's 1975 Programme of Action on the Establishment of a New International Economic Order, TCDC is to be the subject of a United Nations Conference in August-September 1978 in Buenos Aires. Mr. Bradford Morse is the Secretary-General of the Conference.

Locating and managing new sources of energy and jointly developing shared natural resources are prime examples of TCDC actions which developing countries are taking at the regional level, with UNDP support.

The OPEC Special Fund was set up by

OPEC Member countries in January 1976 to extend financial assistance on concessional terms to developing countries. Its secretariat, headed by Dr. Shihata, is in Vienna.

The UNDP, the world's largest source of multi-lateral pre-investment and technical assistance aid, works with 150 governments and 25 international agencies to foster economic growth and improve the standards of living in developing countries. It currently supports some 8,000 national, regional and global projects in agriculture, industry, education, power production, transport, communications, health, public administration, housing, trade and related fields. UNDP costs for these activities, which are met from the voluntary contributions of participating governments, currently average $400 million a year.

(Details on the four projects thus far selected to benefit from the OPEC Special Fund contributions are attached).

CENTRAL AMERICAN ENERGY PROGRAMME

The Central American Energy Programme involves Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, along with the Permanent Secretariat of the Central American Integration Treaty (SIECA), the Central American Bank for Economic Integration (CABEI), and UNDP, in association with the United Nations Office of Technical Cooperation. Its purpose is to provide technical support to the Central American Energy Commission, established by the countries concerned, to assess their energy resources, draw up national and regional plans, and then put these into action.

Becoming more self-sufficient in meeting their energy needs is a major priority of the Central American republics where imported petroleum provides 93 per cent of their primary energy requirements. The rest is supplied by hydroelectric plants or by recently developed geothermal stations.

With energy consumption in Central America increasing at an annual rate of 9 per cent, the value of oil imports for the countries in the region nearly tripled from $73.3 million in 1971 to $310.5 million in 1974. To find ways to lessen the disruptive effect of increased capital outlay for imported energy, a UNDP-organized mission visited Central America in 1974. The Central American Integration Secretariat (SIECA) and the office in Mexico of the Economic Commission for Latin America (ECLA) also participated.

The mission, suggested immediate action in the following areas:

Establishment of a Central American Energy Commission;

The setting up of a basic energy information system;

The analysis of energy demands and supplies;

Energy legislation;

The exploration of geothermal resources;

The exploitation of hydroelectric resources;

The inter-connexion of electrical grids;

The training of human resources in energy matters;

Energy conservation in transportation and industry;

For the longer term, the mission recommended increased efforts to develop primary sources of energy—petroleum, hydropower, geothermal energy and coal, and the substitution of local energy for petroleum.

Because of limitations in funding, UNDP was only able to finance two of the suggested projects: the regional development of geothermal energy initiated in 1977, and the study of the interconnexion of electrical grids begun in 1975. At the end of the first stage of this latter study, it was shown that more than $500 million out of a total investment of $2,500 million could be saved by the countries in the region between 1980 and 2000 through the interconnexion of their electrical grids.

During this time the Central American Energy Commission was created as a technical and consultative body of the integration scheme, with its Secretariat at SIECA. One national Energy Commission was also set up.

The OPEC contribution to the UNDP-supported regional project will enable Costa Rica, El Salvador, Honduras, Guatemala and Nicaragua to expand their co-operative energy programme. Its main elements are development of geothermal energy; realization of the region's hydroelectric potential; the interconnexion of national electrical grids; petroleum exploration; developing coal and begetal energy resources; formulating energy investment policies; creating an energy information system and joint ventures in energy production and marketing.

DEVELOPMENT OF THE NIGER RIVER BASIN

The Development of the Niger River Basin project involves nine West African countries: Benin, Chad, Guinea Bissau, Ivory Coast, Mali, Niger, Nigeria, United Republic of Cameroon, Upper Volta—six of them designated as "least-developed" by the United Nations. Back in 1963, these countries signed a joint agreement on navigation and economic cooperation, establishing the River Niger Commission (RNC) to encourage, promote and co-ordinate studies and programmes concerning exploitation and development of the river basin's resources.

Exploitation of the hydrological potential of the Niger, the seventh largest river in the world, is the key to development of its 1.9 million square mile catchment, inhabited by some 40 million people.

With assistance from the UNDP, the RNC has carried out studies on flood control, set up a documentation centre and made first attempts to draw up a comprehensive development Plan for the River Basin as a whole. At multi-donor meetings held in late 1976 and early 1977 to refine these achievements a five-year estimated $26 million joint Action Programme was approved. The Programme involves increased support for the RNC, studies in such fields as hydro-meteorology, hydro-geology, soils and land use surveys, hydro-electric potential, and demographic and socio-economic studies.

The OPEC Special Fund contribution of $5 million brings to $18 million the funds thus far mobilized for the Five-year Joint Action Programme, for which UNDP is providing $2 million and other donors, $11 million. The first phase of the programme will involve a complete diagnosis of development constraints in the Niger River basin.

OFFSHORE PROSPECTING

Technical Support for Regional Offshore Prospecting in East Asia involves Indonesia, Republic of Korea, Malaysia, Papua New Guinea, the Philippines, Singapore, Thailand, Republic of Vietnam, and the Trust Territory of the Pacific Islands, as well as UNDP, the United Nations, and mining and geological services departments and/or state oil companies of the countries concerned.

The countries involved are all members of the Committee for Co-ordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (CCOP). UNDP has been assisting them with offshore prospecting since 1972, with a project designed to increase regional technical and scientific knowledge of mineral potentials in near-shore, offshore, and adjoining oceanic areas of East Asia and to augment national capabilities to carry out offshore surveys and investigations.

The project has undertaken joint surveys and research programmes, introduced new techniques of exploration to the area, provided advisory services and trained national personnel. It has also published and disseminated technical information on survey results and compiled sea-floor maps. The deep-sea drilling operations have discovered potential mineral and petroleum-bearing areas, some with highly significant economic implications, and the project has played a catalytic role in mobilizing bilateral and multilateral aid for complimentary surveys and other activities.

In order to proceed with their increasingly complex tasks, the CCOP member countries need additional and highly specialized advisory services, as well as advanced training for their personnel. The OPEC Special Fund contribution of $2 million will enable UNDP to extend its assistance through 1981. Future work will include special geological studies; seminars and meetings; joint training programmes; and actions to combat marine pollution.

RED SEA AND GULF OF ADEN FISHERIES

The Development of the Red Sea and Gulf of Aden Fisheries, a new project, will involve a number of countries in this area, UNDP, FAO and the Indian Ocean Fishery Survey and Development Programme (IOP).

Surveys have found that the fisheries of the Red Sea and Gulf of Aden are underdeveloped and underexploited. While the total fishery yield from the waters of the area is currently about 190,000 metric tons, the potential annual yield is estimated at 500,000 metric tons—an increase of some 300,000 tons annually. Development and expansion of the fisheries would provide additional supplies of fish as an alternative protein food for the people of the countries concerned, create new employment opportunities, and improve the living standards of the fishermen. This would both preserve the existence of active fishing communities and promote greater diversification of national economies.

At present the waters of the Red Sea and Gulf of Aden are exploited primarily by artisanal fishermen using traditional small wooden craft and primitive fishing gears. Shore facilities, associated support services and marketing and distribution systems are extremely poor and quite inadequate, even for the current low levels of fishing effort and production.

The three-year project will concentrate on increasing the effort of the present fisheries. First emphasis will be on small-scale fishery and the use of fishing vessels, gear and methods commensurate with the manpower and skills available in the area. Second emphasis will be on achieving significant gains in output in the short run.

Longer range objectives will be to build up the efficiency of the fisheries for effective exploitation of the marine resources of the area, with increase in production of fish for domestic use and possible export.

The regional project will enable a co-ordinated approach to ensure that each country's fisheries are exploited in a rational and safe manner for the benefit of all countries in the region. It will also provide common methods of survey, analysis and evaluation, open up free exchange of knowledge, information and experience in all aspects of fisheries development. There will be joint training programmes, pooling of technical facilities and personnel, and work to identify possible joint venture operations between member countries in fishing, processing, marketing and distribution.

## SOVIET MOBILE MISSILE

Mr. THURMOND. Mr. President, at various times in the past few months, the Defense Department has revealed significant Soviet arms initiatives which serve to destabilize United States-Soviet relations.

In the November 3, 1977, issue of the New York Times, there appeared an article entitled "Pentagon Aides Say Moscow Has Mobile Missiles Able To Reach United States."

This article confirms early warnings by many of us here in Congress that the

Soviets could deploy on short notice a strategic mobile missile capable of striking U.S. targets. This missile, like the cruise missile, is not subject to current verification procedures.

This confirmation by the Defense Department follows earlier admissions that the Soviets had developed a satellite killer, and had under development four or five new land based missiles plus a new ballistic missile submarine in the Trident size class. The new submarine has been labeled the Typhoon.

While the Soviets continue to surge ahead in various weapons programs, U.S. policymakers continue to promote restraint in even more areas of research and development.

Moreover, the Carter administration is finalizing a SALT II agreement which is filled with dangers. This is especially so when our own defense posture vis-a-vis the Soviets is coming into greater question.

While the United States has unilaterally terminated the B–1 bomber program, ended Minuteman III production, and slowed M–X development, the Soviets are continuing to accelerate their strategic programs.

Our policy of unilateral restraint in weapons development in the face of these documented developments is a grave mistake for which we may pay dearly.

However, it is reassuring to read in the press an increasing number of articles on these subjects which indicate the media, if not the administration, recognize the dangers toward which we are headed. A recent example of these writings is an editorial which appeared in the November 1, 1977, issue of the Wall Street Journal entitled "Inviting a Crisis."

Mr. President, I ask unanimous consent that the New York Times and the Wall Street Journal articles, referred to earlier in my comments, be printed in the RECORD.

There being no objection, the articles are ordered to be printed in the RECORD, as follows:

PENTAGON AIDES SAY MOSCOW HAS MOBILE MISSILES ABLE TO REACH U.S.

(By Bernard Weinraub)

WASHINGTON, November 2.—The Soviet Union, in a potentially disturbing strategic advance, is producing mobile missiles capable of reaching the United States, according to Pentagon sources

Within the last 18 months, the sources said, the Soviet Union has produced at least 100 of these missiles, which are designed to be launched from trucks, and have a range of at least 2,400 miles.

Although the Pentagon and Administration officials insist that the Soviet Union is not deploying its mobile missiles, the Soviet decision to produce the weapons, and store them in warehouse and bunkers, has placed the Soviet Union far ahead of the United States in mobile-missile capability. Defense Secretary Harold Brown recently approved development funds for an American mobile-missile system, and a decision on production of the weapon, known as the MX missile, is set for the mid-1980's.

ADDED RANGE INTRODUCED

Development of the Soviet missile, called the SS–16, was essentially completed by the end of 1975, and the weapon has undergone various tests within the Soviet Union. "Serious production" of the mobile missile began more than a year ago, the sources said, although details about the production rate and planned use of the missles remain somewhat obscure.

The Soviet Union has already deployed a medium-range mobile missile—called the SS–20—capable of reaching Europe or China. By adding a third stage to that missile, sources said, the Soviet Union has now produced a mobile missile with intercontinental range but has stopped short of deploying it.

Production of the new missile is expected to complicate talks on limiting strategic arms, partly because the problem of verifying how many missiles each side deploys are compounded with development of new mobile weapons that can be readily moved and hidden.

Moreover, a proposed three-year arms agreement involving a ban on testing and deployment of mobile intercontinental ballistic missiles seems, to several Pentagon officials, somewhat academic in view of the Soviet Union's production of a mobile missile. The proposed ban on mobile missiles is included in an agreement now being negotiated with the Soviet Union.

There is some disagreement within the Pentagon and the Administration about the reasons for Soviet production of the missile and its strategic importance. The mobile missile is less powerful than other intercontinental ballistic missiles now deployed by the Soviet Union, and is generally viewed as primarily a retaliatory weapon in the event of attack.

"We are not particularly frightened by this," one Pentagon official said, "because the 16's are not threatening, compared to the others, and there are constraints on the accuracy of this weapon. What's unclear is why they're doing this."

But another official said: "If we deployed, it would be clearly troublesome, it would have a destabilizing effect. Bringing a new system in always does have a destabilizing effect."

Although Pentagon officials asserted that the new mobile system was not being deployed, knowledgeable defense sources said that the weapon could probably be removed from warehouses, placed on vehicles and deployed quickly, probably in a matter of days. Pentagon officials speculated that the reason the Soviet Union had not deployed the weapon was because of potentially strong American reaction.

President Carter, at a news conference in February, urged the Soviet Union to halt deployment of the SS–20 mobile missile, and noted that the weapons were "very difficult to pinpoint" because of their mobility. The President said that continued development of Soviet mobile missiles "would put a great pressure on us to develop a mobile missile of our own."

Harold Brown, in a speech two months ago, expressed concern about the Soviet Union's accelerating defense programs, and cited the "continuing work on the SS–16, their mobile ICBM."

"Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain," said Mr. Brown.

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INVITING A CRISIS

Even as President Carter tries to reassure the nation he has no new initiatives up his sleeve, he is stumbling into a battle likely to dwarf energy, Panama and the rest of his current troubles. Indeed, the emerging strategic arms agreement is likely to provoke the sharpest treaty battle since the epic bitterness over the League of Nations.

While the Soviets are trying to squeeze out a few more drops of blood in the current talks at Geneva, the concessions they won in the Carter-Gromyko bargaining a month ago already insure major opposition in the Senate. The concessions go far beyond anything the Russians would have dreamed of winning from former Secretary of State Kissinger. The draft provisions are open to a whole series of objections, any one of them serious enough to call for a treaty's defeat.

Crucial limitations would be utterly impossible to verify, for instance, allowing the Soviets to cheat with impunity. The terms already agreed to would limit the American cruise missile so sharply the promising weapon might not even be worth developing. The treaty would undercut the administration's commendable efforts to revitalize the NATO alliance, instead insuring the further demoralization of our European allies. It would guarantee the Soviets an advantage in missile throw weight on the order of 10–1, posing a severe threat to the American Minuteman missile while precluding substitutes such as the proposed MX missile. Each of these points deserves extended discussion.

The most immediately worrisome aspect of the new agreement, though, is the message it conveys to the Soviets about Mr. Carter and his administration. Last March the administration offered what it regarded as sensible arms control measures. The Soviets rejected these proposals out of hand. The administration's response was to go limping back again and again with new and successively weaker proposals. On the most important issues on the table, the Soviets stonewalled for six months while the Americans caved.

Take, for example, the issue of heavy missiles. The Soviets have 308 heavy missiles, each about seven times the payload of a Minuteman. The U.S. has no such huge missiles, and under the treaty would be prohibited from building any. Since it's difficult to see the utility of such weapons for any purpose except a first strike against the other side's missiles, the Carter administration set out in March to get some limit on this threat in return for concessions on the cruise missile.

In March the U.S. asked for a limit of 150 Soviet heavy missiles, asking them to tear down half the force. By May, the U.S. was willing to allow them to keep the whole force, provided only 190 heavy missiles carried multiple warheads (MIRV). Since this is about the current number of heavy missiles with MIRV, the U.S. in essence asked for a freeze on heavy missiles. When the Soviets rejected the 190 number, the U.S. tried a heavy MIRV limit of 220. With that rejected, it tried 250. Finally, when Mr. Gromyko arrived in town, the U.S. dropped the whole idea.

Similarly, in March the U.S. insisted on specific treaty provisions on how the Soviets could use their Backfire bomber, which they insist is not an intercontinental weapon though it can fly from the Soviet Union over the U.S. to Cuba without refueling. By September the U.S. agreed to keep Backfire out of the treaty if the Soviets would make a separate promise not to increase its production rate, even though they refuse to say what the current production rate is.

To buy the limits on heavy missiles and Backfire sought last March, the U.S. offered a cruise-missile concession limiting the range of air, land and ground-based cruise missiles to 2,500 kilometers. Bombers carrying cruise missiles would not have been counted against the agreed number of MIRV missiles. In the September agreements, if the U.S. builds more than about 120 such bombers it must tear down Minuteman or submarine MIRV missiles. And land-based and sea-based cruise missiles would be limited to a practically useless range of 600 kilometers. In return for scrapping the concessions asked of the Soviets, the Americans are giving larger concessions of their own.

The March proposals were in themselves open to serious question, so the September agreements are drawing serious opposition as they are explained to the Senate. But putting aside the effect on the strategic pos-

ture in 1985, the collapse of the American negotiating position raises dangers in 1977. The lack of resolution Mr. Carter displayed to the Soviets between March and September invites them to try pushing him around throughout the world.

## DR. IRA NORTH

Mr. SASSER. Mr. President, October 23 marked a significant anniversary in the life of one of our country's foremost religious leaders. On October 23, Dr. Ira North observed his 25th anniversary as minister of the Madison Church of Christ in Madison, Tenn.

Dr. North is respected and loved not only across the State of Tennessee, but throughout the Nation as well. He is a humane and compassionate minister to the needs of mankind—particularly the little children. His church has taken the lead in providing shelter, sustenance, and love for many homeless and deprived children. Not the least of his many accomplishments are his lovely wife, Avone, and his two splendid sons, Steve and Phillip, who are a credit to their family and their community.

Dr. North's personal dedication to strengthening the strong moral fiber of our Nation is well known, and I feel that we can all learn from his example. Under his leadership, the Madison Church of Christ has grown to be one of the great churches of this country. The church now has 3,679 members with 1,926 families, and a regular church attendance of 4,879. The church is among the largest Churches of Christ in the country. Twenty-five years ago Dr. North preached to 553 members of his bible school. Now, in two sessions, over 3,000 people hear his lesson every Sunday.

The physical demands of Dr. North's position are difficult to imagine. He tends a 3,000-seat auditorium and an array of buildings covering a city block in Madison, a suburb of Nashville. Excavation has begun for a new million dollar education and activities building to meet the ever-increasing demands of the members of the Madison Church of Christ. Additionally, the church is the first in Metropolitan Nashville to have a million dollar budget.

Dr. North is not content to rest on his laurels, though. In January 1978, he will become editor of the Gospel Advocate, the oldest and largest publication serving the Churches of Christ.

I commend to the attention of my colleagues the energy and devotion of my friend Dr. Ira North. Surely his "light shines before men."

## RAOUL BERGER CALLS PANAMA CESSION A LANDMARK IN PROGRESSIVE ATTRITION OF CONGRESSIONAL POWERS

Mr. HELMS. Mr. President, this morning the distinguished constitutional authority, Prof. Raoul Berger of the Harvard Law School, appeared in testimony before the Separation of Powers Subcommittee of the Judiciary Committee to discuss the Panama Treaties in the light of article IV, section 3 of the U.S. Constitution. Dr. Berger needs no introduction; he is the leading authority on American constitutional law, the author of many books on the U.S. Constitution, including the well-known Executive Privilege which had such great impact on the constitutional questions presented during the Watergate controversy.

Dr. Berger appeared before that subcommittee at the request of its distinguished chairman, the Senator from Alabama, Mr. ALLEN. He was asked to comment on the significance of the Panama Treaties—treaties which have been initiated at the will of the Executive—in the light of the constitutional mandate which gives Congress the authority to dispose of U.S. territory and property.

This is a matter of great interest to me, since I am presently party to a suit filed October 13 before the U.S. Supreme Court as HELMS, et al., against Carter, seeking a declaratory judgment on that very question. In that suit, I am joined by our distinguished colleagues, Mr. THURMOND, Mr. MCCLURE, Mr. HATCH, and our colleague in the House, Mr. FLOOD. In addition, five States, Idaho, Iowa, Louisiana, Nebraska, and Indiana are associated with the suit, four as States plaintiffs, and one in the person of the attorney general of that State.

We filed this suit precisely because we felt that the unprecedented action of the executive branch, in claiming the right to dispose of U.S. territory and property by treaty, without authorization from Congress, constituted a precedent on great magnitude.

It was gratifying, therefore, to find that Professor Berger is of the same opinion with regard to what he calls the "Panama cession."

Dr. Berger states as follows:

The effect of these hearings ranges beyond the Panama treaty. The Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for "concurrent jurisdiction" of the President in the disposition of United States property. Acquiescence in such claims spells progressive attrition of Congressional powers; it emboldens the Executive to make even more extravagant claims. I would remind you that Congressional acquiescence encourages solo Presidential adventures such as plunged us into the Korean and Vietnam wars. Congressional apathy fostered the expansion of executive secrecy. Then as now the State Department invoked flimsy "precedents," for example, the pursuit of cattle rustlers across the Mexican border, to justify presidential launching of a full scale war. If Congress slumbers in the face of such claims it may awaken like Samson shorn of his locks.

Mr. President, this is pretty strong language. But Dr. Berger backs it up with a detailed legal analysis of the pretentious claims of the executive branch, tearing to shreds the fallacies of the executive branch claims. This is a matter of extreme importance, which ought to be made available to every Senator before the beginning of the nonlegislative period.

Mr. President, I ask unanimous consent that the statement of Prof. Raoul Berger be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY PROF. RAOUL BERGER

You have invited me to comment on the relation between the Article IV, Section 3(2) power of Congress to dispose of property of the United States and the treaty power, in light of the statements respecting the relation by Herbert J. Hansell, Legal Advisor, Department of State,[1] and Ralph E. Erickson, Deputy Assistant Attorney General.[2] Although I am in favor of the Panama Canal Treaty, I share your solicitude for the preservation of constitutional boundaries and your concern lest the function committed to Congress be diminished. I have long held the conviction that all agents of the United States, be they Justices, members of Congress, or the President, must respect these boundaries. No agent of the people may overlap the bounds of delegated power. That is the essence of constitutional government and of our democratic system.

Long experience has led me to be skeptical of arguments by representatives of the Executive branch when they testify with respect to a dispute between Congress and the President, for they are then merely attorneys for a client, the President. It was for this reason that Justice Jackson dismissed his own prior statements in the capacity of Attorney General as mere advocacy, saying, a "judge cannot accept self-serving press statements for one of the interested parties as authority in answering a constitutional question, even if the advocate was himself."[3] The Hansell-Erickson testimony did not serve to diminish my skepticism.

The effect of these hearings ranges beyond the Panama treaty. The Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for "concurrent jurisdiction" of the President in the disposition of United States property. Acquiescence in such claims spells progressive attrition of Congressional powers; it emboldens the Executive to make ever more extravagent claims. I would remind you that Congressional acquiescence encourages solo Presidential adventures such as plunged us into the Korean and Vietnam wars. Congressional apathy fostered the expansion of executive secrecy. Then as now the State Department invoked flimsy "precedents," for example, the pursuit of cattle rustlers across the Mexican border, to justify presidential launching a full scale war.[4] If Congress slumbers in the face of such claims it may awaken like Samson shorn of his locks.

Earlier judicial statements that this or the other executive practice has been sealed by long-continued Congressional acquiescence[5] need to be reexamined in light of more recent judicial opinions, more conformable to the Constitution, that Congress may not abdicate its powers,[6] and a fortiori, it cannot lose them by disuse,[7] that usurpation can not be legitimated by repetition.[8] Senatorial insistence on respect for constitutional boundaries will warn the Executive against encroachments on Congress' powers; it will alert foreign nations to the fact that treaties for the cession of United States property must be subject to the consent of the full Congress.

Mr. Erickson, addressing himself to the question whether Article IV, Section 2(3), "pursuant to which Congress has the power to dispose of property of the United States is an exclusive grant of legislative power to the Congress or whether the Congress and the President and the Senate, through the treaty power, share that authority," handsomely states that "the answer to this question is not simple and altogether free from doubt."[9] That doubt counsels against encroachments on a power explicitly conferred on Congress; a clear case for establishment of "concurrent jurisdiction" is needed in the teeth of that express grant.

In support of the claim that the President and Senate enjoy "concurrent power" to dis-

Footnotes at end of article.

pose of United States property, Messrs. Hansell and Erickson invoke a melange of dicta, without weighing even stronger statements that Congress' disposal power is "exclusive." Thus the Supreme Court declared that Article IV "implies an exclusion of all other authority over the property which could interfere with this right or obstruct its exercise." [16] Echoing such judicial statements, an opinion of the Attorney General stated in 1899 that "The power to dispose permanently of the public lands and public property in Puerto Rico rests in Congress, and in the absence of a statute conferring such power, can not be exercised by the Executive Department of the Government." [11]

Such statements respond to two cardinal rules of construction. First there is the rule that express mention signifies implied exclusion, which the Supreme Court has employed again and again: "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode." [12] The rule was invoked by the Founders; for example, Egbert Benson said in the First Congress, which sat many Framers and Ratifiers, that "it cannot be rationally intended that all offices should be held during good behaviour, because the Constitution has declared [only] one office to be held by this tenure." [13] The fact, emphasized by Hansell, that "The property clause contains no language excluding concurrent jurisdiction of the treaty power" is therefore of no moment. Having given Congress the power to dispose of public property, it follows that the President and Senate were "impliedly excluded" therefrom. Second there is the settled rule that the specific governs the general:

"Where there is in an act a specific provision relating to a particular subject, that provision must govern in respect to that subject as against general provisions in other parts of the act, although the latter, *standing alone*, would be broad enough to include the subject to which the more particular provision relates." [14]

In terms of the present issue, the specific power of disposition governs the general treaty provision.

Under these rules it is of no avail that, according to Hansell, "there is no restraint *expressed* in respect to dispositions" in the treaty power itself. For this Mr. Hansell relies on *Geofroy* v. *Riggs:*

"The treaty power, as *expressed* in the Constitution, is in terms unlimited *except* by those *restraints which are found* in that instrument against the action of the . . . departments. . . ." [15]

Only the treaty power is "expressed"; Geofroy does not call for express *restraints*—it suffices that they can be *found* in the Constitution. The "implied exclusion" is "found" in the Constitution by virtue of the express grant of disposal power to Congress under the rule of express mention, and of the fact that the general treaty power is limited by the special Congressional power of disposition. These principles are reflected in the Supreme Court's statement in *Sioux Tribe of Indians* v. *United States:*

"Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any interest in the lands must be traced to Congressional delegation of its authority." [16]

To this the State Department responds that *Sioux Tribe* "did not deal with the relation between the treaty power and the Congressional power under Article IV, Section 3, cl.2;" Hansell labelled it "dicta." [17] By this test the Hansell-Erickson collection of dicta falls to the ground, for almost all were not uttered in the context of that relation.

The Executive branch employs a double standard—what is dictum when the language is unfavorable to it becomes Holy Writ when the dictum reads in its favor. Erickson, for example, tells us that—

"Jones against Meehan is cited as an example by reason of the quote and the language there, which it seems to me is of significance, irrespective of the particular facts involved." [18]

Messrs. Erickson and Hansell cannot have it both ways. In truth, dicta carry little weight when a particular issue has not been decided. Chief Justice Marshall dismissed his own dicta in *Marbury* v. *Madison* when they were pressed upon him in *Cohens* v. *Virginia*, 19 U.S. 264, 399 (1821), on the ground that dicta do not receive the careful consideration accorded to the question "actually before the court." The statements here quoted respecting "exclusivity" carry weight because they reflect traditional canons of construction. The foregoing considerations should suffice to dispose of a number of other Hansell-Erickson arguments for "concurrent jurisdiction," but I shall conside them for the sake of completeness.

To escape from the exclusivity of Congress' disposal power Mr. Erickson argues:

"To begin with, Article IV, Section 3, clause 2, uses the same terminology, "Congress shall have power," as Article I, Section 8, which in our opinion, permits treaty provisions relating to such matters to be self-executing [i.e., without Congressional action], at least to the extent that the inherent character of the power or other constitutional provisions do not make the power exclusive to Congress." [19]

Erickson's qualification is a concession that some Article I powers can not be concurrently exercised by the President. The Department of State concedes that "treaties may [not] impose taxes." [20] Why is that power more "inherently" exclusive than such other Article I, Section 8 powers as the power to establish post offices, to provide and maintain a navy, to declare war, to coin money, etc., all of which manifestly can not be exercised by treaty. Erickson proves too much.

Second, he urges:

"Article IV, Section 3, clause 2, is included in a portion of the Constitution which deals with the distribution of authority between the Federal and State governments. It does not purport to allocate powers exercisable by Congress or pursuant to treaty." [21]

But Section 3(2) unmistakably does "allocate powers exercisable by Congress": "The Congress shall have power to dispose of . . . property belonging to the United States." Hansell argues that the *placement* of the property article in clause 4 . . . provides *strong* evidence that the property clause does not restrict the treaty power." [22] That the "placement of a power in one or another Article is without significance for its scope is readily demonstrable: (a) "Congress shall have power to declare the punishment of treason" is located in the Judiciary Article III; (b) Congress' powers to make "exceptions and regulations" respecting the Supreme Court's appellate jurisdiction is lodged in Article III, Section 2; (c) the provision that "Congress may determine the time of choosing the electors" is placed in the Executive Article II, Section 1 (4).

Does this authorize the President by treaty to declare the punishment of treason, to regulate the Court's appellate jurisdiction, or to interpose in the choice of electors? Whether located in Article I or Article IV, "Congress shall have power" means one and the same thing—the power resides in Congress, not in the President. It needs constantly to be borne in mind that the President has circumvented Senate participation in treaty-making by affixing the label "Executive Agreements" to treaties, without constitutional warrant,[23] so that claims made on behalf of the Senate and the President can be turned to his own advantage.

Mr. Hansell also attaches significance to the close linkage between the Article IV "power to dispose" and "the power to make all needful rules and regulations" respecting the Territory or other property belonging to the United States, and cities *Geofroy* v. *Riggs* for the proposition that "the treaty power can be used to make rules and regulations governing the territory belonging to the United States, even in the District of Columbia." [24] *Geofroy* presented the question whether a citizen of France could take land in the District of Columbia by descent from a citizen of the United States. Local law withheld the right, but in keeping with national solicitude for protection of citizens abroad, a treaty provided for reciprocal rights of inheritance in such circumstances for citizens of both signatories. In consequence the treaty overrode the local provision; but this hardly stretches to the "making of rules and regulations" by treaty for the District of Columbia. Were this true, the President could by treaty take over the governance of the District of Columbia, in spite of the Article I, Section 8 (17) provision that "The Congress shall have power to exercise exclusive jurisdiction in all cases whatever over such district." Assume notwithstanding that the treaty power does indeed comprehend the "making of rules and regulations governing the . . . District of Columbia," does the "close" linkage with the "power to dispose" comprehend a disposition of the White House by treaty? Such arguments verge on absurdity.

Messrs. Hansell and Erickson have cited a string of cases in support of "The power to dispose of public land . . . by treaty." [25] Some such as *Holden* v. *Joy*, 84 U.S. 211 (1872), and *Jones* v. *Meehan*, 175 U.S. 1 (1899), have frequently been cited in your hearings. Let me begin with Hansell's citation of *Missouri* v. *Holland*, 252 U.S. 416 (1920), for it quickly illustrates how far-fetched are the State Department's interpretations. *Missouri* v. *Holland* arose out of a State challenge to the treaty with Great Britain for the protection of migratory birds which annually traversed parts of the United States and of Canada. Justice Holms, addressing the argument that the treaty infringed powers reserved to the States by the Tenth Amendment, stated:

"Wild birds are not in the possession of any one, and possession is the beginning of ownership. The whole foundation of the State's rights is the presence within their jurisdiction of birds that yesterday had not arrived, tomorrow may be in another State, and in a week a thousand miles away." [26]

Consequently the State could assert no "title" in migratory birds. By the same token, the United States could lay no claims to "ownership" of the birds, and *Missouri* v. *Holland* is therefore wholly irrelevant to the power by treaty to dispose of property belonging to the United States.

*Holden* v. *Joy* and *Jones* v. *Meehan* will repay close analysis because they involve Indian treaties which constitute one of the pillars of the argument, to quote Erickson, that "the United States can convey its title by way of self-executing treaty and that no implementing legislation is necessary." [27] To begin with *Jones*, both Hansell and Erickson quote: "It is well settled that a good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress, or any patent from the Executive authority of the United States." [28] The treaty had "set apart from the tract hereby ceded [by the tribe] a reservation of six hundred and forty acres . . ." for an individual Indian; and the issue was what kind of title did he take. The Court quoted from an opinion of Attorney General Roger Taney, destined before long to succeed Chief Justice Marshall:

"These reservations are *excepted* out of the grant made by the treaty, and *did not there-*

Footnotes at end of article.

*fore pass* with it; consequently the *title remains as it was* before the treaty; that is to say, the lands reserved are still held under the original Indian title." [29]

The Court held that "the reservation, unless accompanied by words limiting its effect, is equivalent to a present grant of a complete title in fee simple." [30] That explanation presumably responded to the fact that tribal lands were generally held in common; individual titles were all but unknown, so that such title had to be secured through the machinery of the treaty. But that is far from a disposition of government land because, as Taney explained, the "reserved" title remained in the Indians. Many, if not most, of the cases of Indian treaties involve just such "reserve" provisions.[31]

The quotation from *Holden* v. *Joy*, Erickson acknowledges, is dictum; notwithstanding Hansell relies on its as "a clear statement of the law": [32]

"It is insisted that the President and the Senate, in concluding such a treaty, could not lawfully covenant that a patent should be issued to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political." [33]

What bearing the last clause has on Congress' "power to dispose" of public lands escapes me; this Delphic utterance surely does not overcome the clear terms of Article IV. As to the "many authorities," the Court's citation could hardly be farther afield.

To avoid cluttering this statement with a minute analysis of each case cited by the Court for the assertion that "a treaty may convey to a grantee a good title . . . without an act of Congress," I have abstracted them in an appendix attached hereto, so that you may see for yourself that half of the cases thus cited are altogether irrelevant, and that the rest concern "reserves" under which, as Taney observed, no title had passed to the United States but remained in the given Indiana. In considering such dicta, it is well to bear in mind Chief Justice Taney's statement that the Court's opinion upon the construction of the Constitution is always open to discussion when it is supposed to have been founded in error, and that its judicial authority should hereafter depend altogether on the force of the reasoning by which it is supported.[34]

By that standard the *Holden* dictum is no authority at all.

The inappositeness of *Holden* is underscored by the facts. In May, 1828, and February, 1833, "the United States agreed to possess the Cherokees of seven million acres of land west of the Mississippi." It "was the policy of the United State to induce Indians . . . to surrender their lands and possessions to the United States and emigrate and settle in the territory provided for them in the treaties," so an exchange of land was provided. But a third treaty, that of December, 1835, proved necessary, whereby the Indians ceded their lands to the United States in consideration of $5,000,000 to be invested in the manner stipulated. The Indians considered that the prior treaties, confirmed by the new, did not contain a sufficient quantity of land, so the United States agreed to convey an additional tract in consideration of $500,000 to be deducted from the $5,000,000.[35] This may be viewed either as a purchase and sale or an exchange: "the Cherokees were competent to make the sale to the United States and to purchase the lands agreed to be conveyed to them . . . "And the transaction was authorized by the Act of 1830, which empowered the President to set aside land west of the Mississippi for the reception of such tribes as chose to emigrate, and to "exchange" such lands with any tribe.[36] The 1830 act served to ratify the Act of 1828, and "ratification is equivalent to original authority" [37]: "It is well settled that Congress may . . . 'ratify . . . acts which it might have authorized' . . . and give the force of law to official action unauthorized when taken." [38] Although the subsequent 1833 and 1835 treaties differed in some particulars from the authorization, the purpose was the same—"to induce the Indians . . . to emigrate and settle in the country long before set apart for that purpose." [39] When, therefore, the Court, speaking to the contention that the President and the Senate "could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress," stated that "a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it," it was making a statement that was unnecessary to the decision, because Congress *had* authorized the conveyance.

As to other treaties, Hansell tells us, "the precedents looks two ways." Some have been "contingent upon congressional authorization." The "precedents supporting the power to dispose of property by treaty alone," he states, "can be found in the boundary treaties with neighboring powers, especially in the treaties between the United States and Great Britain of 1842 and 1846 for the location of our northeast and northwest boundaries . . ." [40]

Settlement of boundary disputes are not really cessions of United States property. The Oregon boundary dispute proceeded from an inflated claim: "Fifty-Four Forty or Fight"; the British, on the other hand, claimed land down to the forty second parallel. Only when the dispute was settled by treaty—at 49 degrees—could either party confidently assert that it had title.[41] Consequently, as Samuel Crandall, a respected commentator, stated, "A treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition." [42]

Among other examples of alleged treaty transfers of property, Hansell instances the return to Japan of the Ryukyu Islands.[43] By Article III of the 1951 Treaty of Peace with Japan, the United States received the right to exercise "all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of those islands . . ." While Japan renounced, in Article II, "all right, title and claim" to various territories, it made no similar renunciation with respect to the Ryukyus.[44] Quoting the Legal Advisor of the State Department, that "sovereignty over the Ryukyu Islands . . . remains in Japan . . .", a District Court stated that "Sovereignty over a territory may be transferred by an agreement of cession," but it concluded that there had been no cession.[45] The Fourth Circuit Court of Appeals quoted a statement by Ambassador John Foster Dulles, a delegate to the Japanese Peace Conference, that the aim was "to permit Japan to retain residual sovereignty," and held that the treaty did not make "the island a part of the United States, and it remains a foreign country for purposes of" the Federal Tort Claims Act.[46]

"In the history of transfers of property to Panama," Hansell tells us, "we have had a mixed practice." [47] By the 1903 Panama Convention, Panama granted to the United States "all the rights, power and authority within the Zone . . . which the United States would possess *if* it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority . . ." [48] The words "*if* it were sovereign" signal an intent to stop short of a cession of sovereignty. That is confirmed by an *Opinion of the Attorney General*. Considering the Tariff Act levy of duties on articles imported "into the United States or into any of its possessions," he stated that "the Canal Zone is not one of the possessions of the United States within the meaning of that term as used by Congress in the tariff act, but rather is a place subject to the use, occupation, and control of the United States for a particular purpose." [49] In *Luckenbach S.S. Co.* v. *United States*, Chief Justice Taft stated, "Whether the grant in the treaty amounts to a complete cession of territory and dominion to the United States or is so limited as to leave titular sovereignty in the Republic of Panama, is a question which has been the subject of diverging opinions," which he found it unnecessary to decide,[50] and is therefore still open.

Instead he relied on a "long continued course of legislation and administrative action [that] has operated to require that the ports in the Canal Zone are to be regarded as foreign ports within the meaning" of the Act governing the transport of "mail between the United States and any foreign port," [51] itself a hint that the Panama Treaty is no more a cession than the Japanese Treaty respecting the Ryukyus.

It does not follow, however, that the interests of the United States do not constitute "property of the United States." The grant of "use and occupation . . . in perpetuity" constitutes "property" no less than the familiar lease of realty for 99 years. Then there are the installations that cost billions of dollars. Disposition of these no less requires the consent of Congress than does that of territory. In 1942, the President by Executive Agreement promised to transfer certain installations to Panama subject, however, to Congressional approval.[52] A similar provision is to be found in the Treaty of 1955.[53] These are executive constructions that speak against Messrs. Hansell and Erickson.

In sum, Messrs. Hansell and Erickson have failed to make out a case for "concurrent jurisdiction" with Congress in the disposition of United States property. If the President is to fly in the face of the express "power of Congress to dispose" it must be on a sounder basis than the arguments they have advanced. In my judgment, the Panama Treaty should contain a provision making it subject to approval of the Congress.

FOOTNOTES

[1] Hearings on the Panama Canal Treaty before the Senate Subcommittee on Separation of Powers (95th Cong. 1st Sess.) Part II, p. 3 (July 29, 1977), hereafter cited as Hansell.

[2] Hearings before the House Subcommittee on the Panama Canal on "Treaties Affecting the Operations of the Panama Canal," (92 Cong. 2d Sess.) p. 95 (December 2, 1971), hereafter cited as Erickson.

[3] *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 647 (1952), concurring opinion.

[4] R. Berger, *Executive Privilege: A Constitutional Myth* 75–88 (1974).

[5] Congress "uniformly and repeatedly acquiesced in the practice." "It may be argued that while the facts and rulings prove a usage they do not establish its validity. But government is a practical affair intended for practical men. Both officers, law-makers and citizens naturally adjust themselves to any long continued action of the Executive Department—on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice." *United States* v. *Midwest Oil Co.* 236 U.S. 459,471 (1915). But as Justice Frankfurter later declared, "Deeply embedded traditional ways of conducting a government cannot supplant the Constitution or legislation . . ." Youngstown Sheet, supra, n.3 at 610, concurring opinion.

[6] *Panama Refining Co.* v. *Ryan*, 293 U.S. 388, 421 (1935).

[7] *United States* v. *Morton Salt Co.*, 338 U.S. 632, 647 (1950).

[8] "That an unconstitutional action has been taken before surely does not render that same action less unconstitutional at a later date." *Powell* v. *McCormack*, 395 U.S. 486, 546–547 (1969). *Zweibon* v. *Mitchell*, 516 F. 2d 594, 616 (D.C. Cir. 1975): "there can be no doubt that an unconstitutional practice, no matter how inveterate, cannot be condoned by the judiciary." *United States* v. *Morton Salt Co.*, 338, U.S. 632, 647 (1950): "nonexistent powers can [not] be prescripted by an unchallenged exercise . . ."

[9] Erickson 97.

[10] *Wisconsin Cent. R.R. Co.* v. *Price County*, 133 U.S. 496, 504 (1890); see also *Swiss Nat. Ins. Co.* v. *Miles*, 289 Fed. 571, 574 (App. D.C. 1923).

[11] 22 Op. Atty. Gen., 544, 545 (1899). 2 J. Story, *Commentaries on the Constitution of the United States*, Section 1328, p. 200 (4th ed. 1873): "The power of Congress over the public territory is clearly exclusive and universal . . ." Cf. *Osborne* v. *United States*, 145, F. 2d 892, 896 (9th Cir. 1944).

[12] *Botany Worsted Mills* v. *United States*, 278 U.S. 282, 289 (1929); *T.I.M.E.* v. *United States*, 359 U.S. 464, 471 (1959): "we find it impossible to impute to Congress an intention to give such a right to shippers under the Motor Carrier Act when the very sections which established that right in Part I [for railroads] were wholly omitted in the Motor Carrier Act."

[13] *1 Annals of Cong.* 505 (2d ed. 1836) (print bearing running head "History of Congress"); and see Alexander White, id. 517.

[14] *Swiss Nat. Ins. Co.* v. *Miller*, 289 Fed. 570, 574, (App. D.C. 1923) *Ginsberg & Son* v. *Popkin*, 285 U.S. 204, 208 (1932): "General language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment." *Buffum* v. *Chase Nat. Bank*, 192 F.2d 58, 61 (7th Cir. 1951). In this light, the fact, stressed by Hansell, that the Framers contemplated that a treaty could affect "territorial" rights, Hansel 5, is not decisive, for the treaty would yet be subject to the special Congress "power to dispose." There is no evidence in the records of the Convention that the Framers intended in any way to curtail that power, or to give the President a share in it. Were the matter less clear, we should yet "prefer a construction which leaves to each element of the statute a function in some way different from the others" to one which causes one section to overlap another. *United States* v. *Dinerstein*, 362 F. 2d 852, 855–856 (2d Cir. 1966).

[15] Hansell 4; 133 U.S. 258, 267 (1890), emphasis added. One might with equal force argue that no limitation on Congress' "power to dispose" is "expressed" in Article IV.

[16] 316 U.S. 317, 326 (1942). *Turner* v. *American Baptist Missionary Union*, 24 Fed. Cas. (No. 14, 251) 344, 346 (C. Ct. Mich. 1852): "Without a law the president is not authorized to sell the public lands . . . The [Indian] treaty, in fact appropriated the above tract of 160 acres for a particular purpose, but, to effectuate that purpose, an act of Congress was passed."

[17] Hansell 27, 22.

[18] Erickson 105.

[19] Id. 97.

[20] Hansell 25.

[21] Erickson 97.

[22] Hansell 4–5, emphasis added.

[23] Berger, supra, n. 4 at 140–162.

[24] Hansell 5.

[25] Id.; Erickson 97.

[26] 252 U.S. at 434.

[27] Erickson 97.

[28] Hansell 6; Erickson 97.

[29] 175 U.S. at 12, emphasis added.

[30] Id. 21.

[31] See infra Appendix.

[32] Erickson 97; Hansell 22.

[33] Quoted by Hansell 5–6; 84 U.S. at 247.

[34] *The Passenger Cases*, 48 U.S. (7 How.) 283, 470 (1849), dissenting opinion.

[35] 84 U.S. at 237, 238, 241.

[36] Id. 245, 238–239.

[37] *Wilson* v. *Shaw*, 204 U.S. 24, 32 (1907).

[38] *Swayne & Hoyt, Ltd.* v. *United States*, 300 U.S. 297, 301–302 (1937).

[39] 84 U.S. at 240.

[40] Hansell 6.

[41] S. E. Morison, *Oxford History of the American People* 538, 546–547 (1965).

[42] S. Crandall, *Treaties, Their Making and Enforcement* 226 (2d ed. 1916).

[43] Hansell 6.

[44] 3 U.S.T. 3169, 3172, 3173.

[45] *United States* v. *Ushi Shiroma*, 123 F. Supp. 145, 149, 148 (D. Hawaii, 1954).

[46] *Burna* v. *United States*, 240 F. 2d 720, 721 (4th Cir. 1957).

[47] Hansell 7.

[48] Quoted Hearings, supra n. 1, Part I, p. 5. emphasis added.

[49] 27 Op. Atty. Gen. 594, 595 (1909).

[50] 280 U.S. 173, 177–178 (1930).

[51] Id. 178.

[52] "When the authority of the Congress . . . shall have been obtained therefore . . ." Agreement of May 18, 1942, 59 Stat. (Pt. 2) 1289.

[53] Agreement of January 25, 1955 6 U.S.T. 2273, 2278.

APPENDIX

*I*

*Holden* v. *Joy:* its citations for treaty power to dispose of property.

A. "Reserve" cases (title remains in Indians):

(1) *United States* v. *Brooks*, 51 U.S. (10 How.) 442 (1850).

Indian cession to United States; supplement to treaty provided that Grappe's representatives "shall have their right to the said four leagues of land reserved to them . . ." (450, 451). Held: treaty "gave to the Grappes a fee simple title to all the rights the [Indians] had in these lands . . ." (460).

(2) *Doe* v. *Wilson*, 64 U.S. (23 How.) 457 (1859). Indian treaty ceded land to United States, making reservations to individual Indians. "As to these, the Indian title remained as it stood before the treaty was made; and to complete the title to the reserved lands, the United States agreed that they would issue patents to the respective owners." (461–462).

(3) *Crews* v. *Burcham*, 66 U.S. (1 Black) 352 (1861). Cession by Indians with reserves (355). "The main and controlling questions involved in this case were before this court in the case of *Doe* v. *Wilson*, 23 How. 457 . . ." (356).

(4) *Mitchel* v. *United States*, 34 U.S. (9 Pet.) 711 (1835). Prior to the Spanish cession of Florida to the United States, the Indians had made a cession to Spain, "reserving to themselves full right and property" in certain lands (749). Held: "by the treaty with Spain the United States acquired no lands in Florida to which any person had lawfully obtained" title. (734, 756). Issue: title of purchasers from Indians to reserved lands.

(5) *The Kansas Indians*, 72 U.S. (5 Wall.) 737 (1866). Treaty exchange of lands; Indians reserved lands for each individual (739, 741). Issue: was such land taxable by Kansas.

B. Irrelevant Cases:

(1) *Meigs* v. *McClung*, 13 U.S. (9 Cranch) 11 (1815). Held: land claimed from defendants did not lie within territory ceded to the United States by the Indians. (17).

(2) *Wilson* v. *Wall*, 73 U.S. (6 Wall.) 83 (1967). Treaty provided that certain Indians would be entitled to 640 acres for self, and additional acres, roughly speaking, for each child. (84). Issue: whether an Indian held land governed by the latter clause in trust for his children. (86). Court said "Congress has no constitutional power to settle the rights under treaties except in cases purely political," (89) the clause quoted in *Holden* v. *Joy*. The reason, it explained, was that "The Construction of them is the peculiar province of the judiciary . . ." *id.* In other words, interpretations of treaties is for the courts.

(3) *American Insurance Co.* v. *Canter*, 26 U.S. (1 Pet.) 511 (1828). Insurer brought a libel in the District Court, South Carolina, to obtain restitution of 356 bales of cotton carried by ship that was wrecked on the Florida coast. A Florida territorial court had earlier awarded 76⅔ salvage to salvers, who sold the Canter. (540). Issue: did the territorial court have jurisdiction. No mention of grant by United States.

(4) *Worcester* v. *Georgia*, 31 U.S. (6 Pet.) 515 (1832). Worcester, a white missionary was convicted of residing within Indian territory without a State license. The treaty with the Indians placed them under the protection of the United States, gave it the sole right of "managing all their affairs." Held: the Georgia act can have no force in the Indian territory. (561).

(5) *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253 (1829). Re grants made in the ceded territory by Spain prior to January 24, 1815, the article provides "that those grants shall be ratified and confirmed like Indian reserves . . . the ratification and confirmation which are promised must be by the Act of the Legislature," i.e. Congress. (314–315).

*II*

Some additional Hansell citations for power to dispose by treaty.

(1) *Reid* v. *Covert*, 354 U.S. 1 (1957). Military Code provided for trial by court martial of "all persons . . . accompanying the armed forces" of the United States in foreign countries. Wife of Army Sergeant convicted by court martial in England of his murder. Held: Bill of Rights requires jury trial after indictment.

(2) *Asakura* v. *Seattle*, 265 U.S. 322 (1924). Seattle ordinance restricted pawnshop license to United States citizen. (339–340). Japanese attacks as violation of treaty provision: citizens or subjects of each signatory "shall have liberty . . . to carry on trade, wholesale and retail . . . upon the same terms as native citizens or subjects. . ." (340). Held: can't deny the Japanese equal opportunity. (342).

(3) *Santovicenza* v. *Egan*, 284 U.S. 30 (1931). Italian subject dies in New York, leaving no heirs or next of kin. (351). Italian consul claims under "most favored nation" treaty clause. Held: The treaty-making power is broad enough to cover "the disposition of the *property of aliens* dying within the territory of the respective parties. . ." Any "conflicting law of the State must yield." (40).

*III*

Some additional Erickson citations for self-executing treaty conveyances.

(1) *Francis* v. *Francis*, 203 U.S. 233 (1906) Indian treaty ceded land to United States, but reserved certain tracts for use of named persons. (237). Quotes *Jones* v. *Meehan*; when treaty makes "a reservation of a specified number of sections of land ... the treaty itself converts the reserved sections into individual property . . ." (238). It was in these circumstances that the Court said, "a title in fee may pass by treaty without the aid of an act of Congress, and without a patent," (241–242) the reason being that title to the reserved land remained in the Indians.

(2) *Best* v. *Polk*, 85 U.S. (18 Wall.) 112 (1873). By Indian treaty "reservations of a limited quantity [of land] were conceded to them. (113). One section "had been located to an Indian." (113, 116). Thereafter, the United States issued a patent to James Brown. Held (117), "the Indian reservee was held to have a preference over the subsequent patentee."

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ADDENDUM TO STATEMENT BY RAOUL BERGER

The statement by Attorney General Griffin B. Bell (hereafter cited as A. G.) before the

Senate Foreign Relations Committee, September 29, 1977, reached me on Saturday afternoon, October 29, 1977, too late for inclusion of my comments in the body of my statement. Only three points made by the Attorney General seem to me to call for additional comment, and of these I shall speak in turn.

I

*The Percheman case*

The Attonrey General cites *United States* v. *Percheman*, 32 U.S. (7 Pet.) 511, 88–89 (1833) to prove that "the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly acquired territory." A. G. at p. 10. At the cited pages it appears that Article 8 of the treaty provided;

"All the grants of land made before the 24th of January, 1818, by his Catholic Majesty . . . in the said territory ceded by his Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands". . .

This Article, Chief Justice Marshall remarked; "must be intended to stipulate expressly for that security of private property which the laws and usages of nations would, without express stipulation, have conferred . . . Without it (Article 8), the title of individuals would remain as valid under the new government as they were under the old . . . the security of (pre-existing) private property was intended by the parties". . .

In short, the treaty provided that prior Spanish grants to *private* persons should be ratified and confirmed, a provisio far removed from presidential "regulation" of *public* territory. Moreover, *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253, 314–315 (1829), a case cited by the Attorney General (A.G. at p. 3), held with respect to the self-same provision that "the ratification and confirmation which are promised must be by the Act of the Legislature," i.e. Congress. The citation to *Percheman* illustrates why I approach an Attorney General's statement with something less than awe.

II

*Remarks in the legislative History of the Costitution*

(1) The Attorney General asserts that "the members of the Convention were fully aware of the possibility that a treaty might dispose of the territory or property of the United States," (A.G. a p. 5). He begins with the remark of George Mason in the Constitutional Convention: "The Senate by means of a treaty might alienate territory etc. without legislative sanction." A.G. at 6; 2 Farrand 297. This was during a debate on a resolution that "Each House shall possess the right of originating bills," when Mason seconded Strong's motion to "except bills for raising money for the purposes of revenue, or for appropriating the same." The Senate, said Mason, "could already sell the whole Country by means of Treaties," plainly an extravagant overtstatement, made at a time when the treaty was not under discussion. His "alienate territory" remark may merely represent a strategic retreat from his untenable "sell the whole country" remark.

There follow a group of utterances that have reference to boundary disputes, i.e. conflicting claims to ownership to be settled by treaties of peace.

(2) When the treaty power was under discussion, Williamson and Spaight moved "that no Treaty of Peace affecting territorial rights should be made without concurrence of two thirds of the [members of the Senate present]." A.G. at p. 6; 2 Farrand 543. Similarly, Gerry, speaking for a greater proportion of votes on "treaties of peace", said that here "the dearest interests will be at stake, as the fisheries, territories, etc. In treaties of peace also there is more danger to the extremities of the Continent of being sacrificed than on any other occasion."

A.G. at p. 6; 2 Farrand 541. The "extremities of the Continent" has reference to boundary disputes which do not really involve territory owned by the United States.

(3) "Sherman and Morris proposed but did not formally move," the Attorney General states, "the following proviso:

"But no treaty (of peace) shall be made without the concurrence of the House of Representatives, by which the territorial boundaries of the United States may be contracted" . . .

A.G. at p. 6; 4 Farrand 58. Farrand adds that "The subject was than debated, but the motion does not appear to have been made." *Id.* Why was the motion not made after debate? Presumably, the matter was postponed for consideration when Article IV, Section 3(2) would come up for discussion. During this subsequent discussion of "The Legislature shall have power to dispose of . . . the territory . . .", it is singular that no mention was made of an exception for disposition under the treaty power. 2 Farrand 466. Nonmention is the more remarkable because such an exception would carve out an area of undefined magnitude from the power conferred, a matter which would affront the democratically minded who placed their faith in the House.

It seems more reasonable to infer from the history that Article IV, Section 3(2) was designed to set at rest the fears that territory might be ceded without the concurrence of the House.

(4) The Attorney General cites an amendment proposed by the Virginia Ratification Convention as exhibiting the "awareness of the Founding Fathers that the Constitution authorizes self-executing treaties disposing of the territory and property of the United States":

"No commercial treaty shall be ratified without the concurrence of the members, of the Senate [not merely of those present]; and no treaty ceding, contracting . . . the territorial rights or claims of the United States . . . shall be made, but in cases of extreme necessity; nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively."

A.G. at p. 7; 3 Elliot, Debates on the Federal Constitution 660. The Attorney General's reading paradoxically transforms Virginia's anxiety to have greater safeguards, i.e. three-fourths of *both* Houses rather than the bare majority that satisfies Article IV, into an argument for excluding the House altogether. Like the earlier remarks, the Virginia proposal testifies to the importance that the Founders attached to the disposition of territory—no cession except "in cases of extreme necessity"—and it counsels against reading the equivocal "treaty-making" to encroach upon the "power to dispose" that requires the vote of both Houses, not merely the Senate. In any event, it may be asked, should the post-Convention view of one State be permitted to override the plain terms of Article IV.

(5) Hugh Williamson, a delegate to the Convention, wrote to Madison some nine months after its close, to recall to him:

"A Proviso in the new Sistem which was inserted for the express purpose of preventing a majority of the Senate . . . from giving up the Mississippi. It is provided that two-thirds of the members present in the Senate shall be required in making treaties."

A.G. at p. 7–8; 3 Farrand 306–307. The Mississippi presented a gnawing boundary question which threatened the expansion of the West and was only settled by the Louisiana Purchase. Boundary treaties do not really involve the disposition of territory or property of the United States but the adjustment of conflicting claims, even when some believe their claims to be more valid than those of the opposing party.

To my mind, the history is at best inconclusive; the remarks quoted by the Attorney General are confined to adjustment of boundary disputes, with one exception, by treaties of peace. Treaties of peace present special problems, and such citations do not add up to general concurrent jurisdiction over the disposition of government territory or property. To go beyond such territorial adjustments collides with the rationale of *Pierson* v. *Ray*, 386 U.S. 547, 554–555 (1967). With respect to the common law immunity of judges from suit for acts performed in their official capacity, the Court declared,

"We do not believe that this settled principle was abolished by Section 1983, which makes liable 'every person' who under color of law deprives another of his civil rights . . . we presume that Congress would have specifically so provided had it wishes to abolish the doctrine."

Thus, the all-inclusive "every person" was held not to curtail an existing common law immunity in the absence of a specific provision. The more equivocal treaty-making power demands an even more exacting standard. Before it be concluded that it in any way diminishes the explicit grant to Congress of "power to dispose" of territory, a clearly expressed intention to do so is required. That requirement is not satisfied by the random remarks collected by the Attorney General.

The Attorney General concedes that—

"the specific power granted to the House of Representatives and Congress in fiscal matters (Article I, Section 7, clause 1 and Article I, Section 9, clause 7, money bills and appropriations power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditure of funds. Were it otherwise, President and Senate could bypass the power of Congress and in particular of the House of Representatives over the pursestrings."

A.G. at p. 4–5. Now, sections nine and seven are couched in quite dissimilar terms. One, Section 9(7), is framed in terms of flat prohibition: "No money shall be withdrawn from the Treasury but in consequence of appropriations made by law . . . ." Section 7(1), on the other hand, merely provides that "All bills for raising revenue shall originate in the House." Yet, the Attorney General reads Section 7(1) to preclude the President and Senate from "bypass[ing] the power of Congress and in particular of the House of Representatives over the pursestrings." What is there that distinguishes "All bills . . . shall originate in the House" from "The Congress shall have power to dispose . . . ."? The impalpability of the distinction is underlined by the State Department's concession that "treaties may [not] impose taxes." Nothing in this Article I, Section 8(1) "The Congress shall have power to lay and collect taxes" distinguishes it from the Article IV "The Congress shall have power to dispose . . . ."

If the President may not by treaty "bypass" the power of the House to originate revenue-raising bills, or the power of Congress to tax, no more may he "bypass" its "power to dispose" of the territory and property of the United States.

## A UNIQUE MEAT MARKETING CONCEPT IN FORT PIERRE, S. DAK.

Mr. McGOVERN. Mr. President, oftentimes a small businessman with an innovative idea and a better approach to manufacturing or processing does not receive the recognition he deserves. On a recent trip to South Dakota, I came upon an efficient meatpacking operation owned and operated by J. Tibbs Hamilton in Fort Pierre, S. Dak. On the modest scale of a small businessman, Mr. Hamilton has developed a thoroughly integrated meat system that takes cattle

"from the gleam in the bull's eye, to birth, weaning, finishing, slaughter, and sales."

Mr. Hamilton is by profession a rancher, but through self-education designed and constructed his own slaughtering and packing plant in Fort Pierre and now is highly competitive in distributing meat of high and reliable quality in a defined trade area.

Mr. Hamilton's father, P. C. Hamilton, operates a successful cattle feeding operation near his son's business which I also had the privilege of visiting on my recent trip to my home State.

South Dakota, a magazine published quarterly by the industrial division, department of economics and tourism development, a division of State government, carries an excellent article on Mr. Hamilton's operation which is known as Cedar Breaks Beef, Inc. The article is entitled "Unique Beef Marketing Concept at Cedar Breaks Beef." As a tribute to Mr. Hamilton's personal ingenuity and for the information of Senators, I ask unanimous consent that the text of the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNIQUE BEEF MARKETING CONCEPT AT CEDAR BREAKS BEEF

Rancher J. Tipps "Tip" Hamilton likes to solve a problem by defining it, studying it, then grabbing it by the horns to wrestle out a solution. He's one of a small army of South Dakota entrepreneurs who are swelling the state's growing industrial scene.

Hamilton's specialty is beef marketing, his firm is Cedar Breaks Beef, Inc., Ft. Pierre, and he's bringing much hard thought to better and more efficiently produced, high quality, reasonably priced beef for the retail and hotel/restaurant trade. At present his production and sales are modest, but he's going about building his business with dedication. It is difficult to imagine him failing in his venture, though not many small producers survive in the teeth of the fierce competition of large packers.

Hamilton has given his concept about how beef should be produced, finished, slaughtered, aged and marketed in untold hours of concentrated thought, time and energy. He's now at the stage where his brainchild will receive the tough testing of the marketplace.

For three years Hamilton has been marketing his beef, bred and produced on his northeast Haakon County ranch called Cedar Breaks, direct to central South Dakota residents. His is a totally integrated operation, or as he says, "We take our cattle from the gleam in the bull's eye to birth, weaning, finishing, slaughter and sales." (This takes an estimated 39 months or more than three years before a steer is ready for market.) Until his new plant was put in operation last April, his critters were custom slaughtered for him by Public Lockers in Kadoka. Now that he has his own slaughter and packing plant, Hamilton has complete control of his operation, and says he prefers it that way.

How did he get started in this integrated beef marketing business anyway? Hamilton says it came out of his philosophy that there should be a definite link between cow-calf production and the consumer. Besides looking to improve his product beginning with breeding, or as he says, "genetic input", Cedar Breaks Beef is about as integrated as an operation of its kind can be. And, as a closed corporation, Hamilton retains complete control to keep it that way, or as he says, "to better produce meat for the consuming public."

What of the market in central South Dakota—is it there? In market studies, Hamilton came up with figures that indicated he needed a population base of 50,000 within an 80-mile radius of Pierre to be successful. Though the population base within Hamilton's 80-mile radius doesn't quite reach that figure, he feels that with his type of operation he can still effectively compete with the larger packers supplying the area. And he does fill orders as far as 100 miles away—in Eagle Butte for example. Plus this, he aggressively advertises and promotes his retail outlet at the Ft. Pierre "home office" in a continuing effort to open up new sales areas.

Hamilton's Cedar Breaks Beef is small by some standards. Its capabilities are the slaughter of an average of six head of cattle a day—or 30 a week. At present his slaughter is about 20 head a week, or something like 7–8,000 pounds of finished beef to be sold at retail on a weekly basis.

Hamilton, who is building his own demand base, says that his plant is designed to expand to a goal of 100 head per week, but does not foresee this amount in the immediate future.

A visitor going through Hamilton's brand new $200,000, 4,800 square foot building sees a packing plant quite unlike what one would expect to find. It doesn't "look like one" is about the best description that comes to mind. The office and retail areas have a subdued western motif featuring natural rough wooden wall paneling, which tends to give the atmosphere of some business venture other than a meat market—insurance or real estate was meant to look that way.

But the heart of Cedar Breaks Beef is the slaughter floor, cutting rooms, aging lockers and chilled storage areas. The building is basically Hamilton-designed, with "technical help from outside architects", he says. Before building he looked at plants all over the country—big and small—to incorporate their good features and, of course, to eliminate the outmoded or inefficient aspects. A Hamilton innovation was the use of prestressed concrete slabs in the wall and roof construction, which also took into account Environmental Protection Administration (EPA) guidelines and those of state regulations in the design.

(An interesting sidelight is that Hamilton has had no trouble with OSHA or other governmental watchdog agencies on his building design, or present operation. He is the first to say some of the rules that had to be followed are "a pain in the neck", but quickly amends this to say, "the rules are reasonable and fair, and no one has made any arbitrary rulings concerning Cedar Breaks Beef." While Hamilton feels governmental controls are slightly on the strict side, he is more than willing to abide by them.)

As could be expected, there was some apprehension among the citizens of Ft. Pierre when word got around that a cattle slaughtering facility was being planned for their town. Hamilton went so far to allay these fears by flying the mayor and a city councilman to Ovid, Colorado to inspect a similar packing plant there. There have been no complaints on "packing house odors" since he has started his operation. Hamilton explains this by saying they place very heavy emphasis on sanitation and "keeping the bacteria count down." No germs, no smell.

What about the final product? Cedar Breaks Beef is not U.S. Government graded, but Hamilton says his product (which does meet rigid state health and inspection requirements) is equivalent to USDA Choice. And, while there are a number of areas where Hamilton cannot compete with the big packers, there are a number of areas where the big boys can't compete with him. Also, Hamilton feels that under his present operating conditions, he can still look for growth potential and stay competitive. As he says, "You've got to work for controlled growth. We can do that and remain very much in the ball game."

He can't compete, for example, with the large packing firms in merchandising and selling the so-called "primal cuts." These are the first large cuts that are made, and sold to food chains and large supermarkets for them to finish cutting into such items as steaks and roasts to their own specifications.

However, Hamilton has a competitive edge because of his firm's "smallness" and its resulting ability to fill special orders, on price, and on the individual attention he can give to the restaurant trade. (As an example of the latter, Hamilton can give them a better "inventory count" on what they purchase from him. Where larger outfits bill on pounds sold, Hamilton can actually bill by number, for example; "50 eight-ounce steaks." This allows for a much tighter inventory control—restaurants also suffer from pilferage.)

In line with following the federal and state regulations to the letter, Hamilton is a stickler for safety. Recently, a reporter taking a tour of the plant had a white technician's coat handed him, and a hardhat clapped on his head. Hamilton smiled and said, "You never know when an inspector will show up," in a way that suggested strongly that he follows all safety rules, inspector on the premises or not. A further safety precaution is that his meat cutters wear special wire lined safety gloves—fine honed boning knives maimed or severely lacerated many cutters in the old days.

In a business such as Cedar Breaks which requires large amounts of capital outlay, cost consciousness becomes second nature. The "hide-puller" that Hamilton installed is a good example of this. Where commercial hide-pullers cost in the neighborhood of $10,000, Hamilton engineered and designed his own for about one-fifth that cost, and it is already paying dividends. Where the old commercial varieties pull off the hide from the bottom to top, Hamilton's works just the opposite—from top to bottom. At the end of the operation, the meat is much cleaner to start with, and it takes significantly less water to wash—conservation that also saves money.

As with many South Dakota small businessmen, Hamilton looks at his ten employees as part of a team and treats them accordingly. While none are yet paid journeyman's wages, Hamilton says as they become more proficient, he fully expects to pay above going rates. People are where the profits are, he says, and he is prepared to share with the help. He also runs his own training program, and morale appears high, with everyone tending to the business at hand.

The central South Dakota consumer who buys meat from Cedar Breaks, is probably well acquainted with Hamilton's wife Marcelyn or "Mort" as she is known to her many friends in the area. Besides being a mover and shaker in her own right, Mort is constantly active in various community projects, plus putting in a "good day's work" at the office. She handled many of the research details that were needed early in the young firm's life, and concentrates heavily on customer relations.

Mort works with retail sales, tends the shop in the plant, and when occasion demands, takes her turn on the delivery truck. She could easily be classified as the chief cook and bottle washer of the front office—while Hamilton would carry that title for the production end of things.

It is doubtful that Hamilton has ever read Upton Sinclair's muckraking expose of the Chicago meat packing industry, "The Jungle", which was written at the turn of the century. To him it is inconceivable that such

seamy conditions could exist, and in no way could he relate them to his own Cedar Breaks Beef. Or as he has observed, "When you have a potentially good thing going, the last thing you do is run a shoddy operation."

## CANCELLATION OF GOVERNORS ENERGY CONFERENCE

Mr. DOLE. Mr. President, a number of times during the last month you have heard me say that the President has chosen to solve our energy problem by overworking one-half of the solution and completely ignoring the other half of the solution. He has chosen to treat conservation as the cornerstone of his policy, taxes as the centerpiece, and increased production as though it did not exist.

When we, in the Senate, have dared to suggest that increased production might equally well help us decrease our need for foreign oil, the President has lashed out—at the Senate, at the producers, and at anyone else who might suggest that his program was anything less than "comprehensive".

Up to this point I have been merely disappointed. This hard-line approach, in my opinion, ignored many of the facts that we tried to bring to his attention. While I have disagreed with the President, I nevertheless believe that the dialog of the last months has been invaluable for the American people. I think the American people deserve to hear arguments on both sides of every issue. We have aired our differences so that the public can form an opinion and can, in turn, make their own judgments known to us.

Today I am disturbed. I have learned that the President has actively attempted to avoid an open discussion of energy issues for fear that the airing of such issues at this time might somehow endanger his energy package. This is a time when it is indeed crucial that all sides of the energy issue be heard.

Let me give you a short history of what has transpired over the last couple of months.

JULY 1977

Back in July, you remember that the members of the National Governors Conference came to Washington to discuss energy with the President. After that meeting some of the Governors were disappointed that the President did not discuss production as part of his approach to solving this Nation's energy problems. At the urging of the Governors, the President agreed to a second conference expressly to discuss production, but even then some of the Governors believed the President was delaying the conference until their views would have had no impact. I quote from a statement issued by the Midwestern Governors Conference during their August meeting.

> We applaud President Carter's willingness to convene a conference of the administration and the Governors to assess energy production needs and issues. However, that conference must be convened immediately if it is to serve any useful purpose. To delay it to late September—as it is now proposed—will guarantee that its results have no impact upon Senate deliberations on the energy legislation. Moreover, we believe that key congressional leaders should be involved in the conference.

After further delays, the President finally did schedule the conference, for November 3d and 4th—after all the legislation had been debated by both Houses of Congress.

CONFERENCES CANCELLED

On Friday, October 28, the Governors received a telegram from the White House again postponing the conference. The telegram reads in part—

> Because of the necessity for the President, members of his cabinet, White House staff, and other administration officials to devote substantial time to the matters now being debated in the Congress, and because the final shape of the energy legislation has yet to be determined, the President has regrettably found it necessary to postpone the energy conference previously set for November 3rd and 4th.

Obviously he wants his legislation passed without any assistance from those most qualified to tell him what the effects of his program will be. This can only be interpreted as an attempt to avoid both justifiable criticism of his energy package, and a refusal to listen to suggestions that could improve his program.

For one, the Governor of the State of Kansas, Robert Bennett, has responded strongly to the President's latest move. While the States and local communities will be left to deal with the economic impacts of the energy legislation, the Governor voices concern that the program would affect the ability of the States to solve their energy problems.

The Governors have a vital interest in this legislation and deserve to be heard before, not after, the energy bills are enacted into law. The energy bills are now in conference and there is still time. I call upon the President to reconsider and to meet with the National Governors Conference before the House and Senate conferees make their final decisions on the energy bills.

## HUD REORGANIZATION

Mr. WALLOP. Mr. President, as many of my colleagues know, the Department of Housing and Urban Development is about to implement a reorganization plan that will serve to centralize many HUD functions in regional offices. Senate Resolution 302, which I have cosponsored, asks that the implementation of the reorganization be delayed until the Congress can hold hearings on it.

In a letter cosigned by several Senators from region VIII, I have asked the Secretary of HUD to postpone implementation of the reorganization until such time as the Congress can solicit local responses and evaluate the proposals with complete data available. It should be noted that this letter goes beyond asking for hearings; it demands that HUD produce specific data supporting its position.

Mr. President, I have nothing against HUD's efforts to reorganize, but I am concerned about the approach that the Department took regarding this reorganization. The briefings provided by HUD officials at the request of several Senators have convinced us that when the Department planned their reorganization, its effects on particular regions were never considered nor was input requested from those regions. All of the Department's efforts were confined to the national level: national lobbying organizations were solicited for comment; national averages and national sums were used for their working figures; and national gains are spoken of as the end result of the reorganization. I am worried that those gains, if they do materialize, will come only at heavy expense to certain regions, specifically region VIII.

HUD admits that region VIII is unique. This is evidenced by the fact that only in Denver is the regional office and the area office colocated. HUD cites this fact again and again in trying to "prove" that they are not trying to force the Rocky Mountain west into an east coast mold. When pressed for substantive data on the region, however, HUD says that they do not have it available at this time. Logic would indicate that if the reorganization were truly designed to fit the needs of different regions, that data would have been available at the time the reorganization plans were drawn up.

HUD has attempted to compensate for the lack of statistical data on this reorganization by offering statements that contractors, who must deal with the agency, approve of the reorganization. On the contrary all of the evidence I have seen suggests that contractors throughout Wyoming are universally opposed to the reorganization. By working only with national organizations such as the National Association of Home Builders, HUD failed to receive adequate input from those that will be most directly affected by the reorganization—the local contractors themselves. In letters to my office, those contractors have expressed shock about the reorganization and universal opposition to it. For the benefit of my colleagues, I ask unanimous consent that five of these letters be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. Mr. President, even a cursory reading of these letters will indicate that contractors in Wyoming are happy working with the local HUD office in Casper. The people in that office are knowledgeable, helpful, and friendly, and contractors throughout Wyoming have built good working relationships with the folks in the Casper office. Contractors see no reason to take their multifamily business, which requires the completion and processing of lengthy, complex forms, to Denver which is hundreds of miles and, at the very least, several hours away. Frankly, I understand and sympathize with their feelings.

In any case, I cannot permit a reorganization of this proportion to occur when the Department involved does not even have specific regional figures available to demonstrate that increased efficiencies will result. Until those figures can be produced and considered by this body, I will continue to demand that implementation of the reorganization be postponed. I would hope that in their delib-

erations on Senate Resolution 302, the Senate Committee on Governmental Affairs will share this point of view and I urge them to report the resolution favorably.

EXHIBIT 1

OCTOBER 25, 1977.

Senator MALCOLM WALLOP.

We have worked with the Federal Housing Administration throughout the 1970's in our capacities as a contractor, realtor, and developer. We have found the Casper office to be of outstanding assistance to us. They have been most professional and helpful.

Despite several cutbacks in staff, they have struggled to be of help.

To attempt to obtain these services in Denver means a distance of over 400 miles and makes the usefulness almost impossible for us.

ADDISON E. WINTER,
*President, Stylhomes, Inc., Stylco Development, Inc., Empire Developers, Inc.*

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CHEYENNE, WYO.,
*October 28, 1977.*

Hon. MALCOLM WALLOP,
*Federal Building,*
*Casper, Wyoming*

DEAR SENATOR WALLOP: We are at an extreme loss, as a builder and developer in the Wyoming area, to see any constructive purpose for moving any portion of the central Wyoming HUD office to Denver.

We have operated as home buliders since 1959 and in that period have used the FHA and VA programs exclusively. We have witnessed a greater need for these services in the past few years and fail to understand how we, or our buyers, could be served to a greater advantage by centralization.

In the recent past, we had our Cheyenne HUD office close, with centralization in Casper and have experienced delays in inspections and now can only see additional delays in subdivision evaluation, appraisals, commitments and inspections.

Our buyers, as tax payers, are entitled to the best quality of service and should not be penalized by increased costs due to increased construction interest costs which we would be assessed due to such delays. As a Colorado builder and developer, we too have had experience with the Denver Regional Office and after several years of lack of cooperation, unacceptable valuations, delays and indifferent attitude, we, along with other Colorado builders, took all of our business to the Veterans Administration.

In closing, we reiterate, under the present increased demand for services in Wyoming, that we feel the Casper office strength should be increased rather than a consideration of centralization.

Very truly yours,

R. J. ROHN,
*Vice-President.*

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RAWLINS, WYO.,
*October 26, 1977.*

Re: Federal Housing Administration's Casper Office.

Hon. MALCOLM WALLOP,
*U.S. Senator,*
*Federal Building,*
*Casper, Wyo.*

DEAR SENATOR WALLOP: As a housing contractor in Rawlins, Wyoming, I was shocked to hear that HUD's Casper FHA Insuring Office may possibly be moved to Denver. This move would seem completely incongruent with the increasing demand for federally insured housing in the State of Wyoming.

I have worked with the Casper Insuring Office during the past two years in several areas: 2 subdivision approvals; FHA single family home loans for customers; and presently, with a 221D4–FHA insured multi-family apartment project—Heatherway Apartments. Each of these contacts with the FHA Casper office would have been almost prohibitive if contact had to be made in Denver. The number of contacts with the office via telephone, conferences in Casper and conferences and inspections in Rawlins have been numerous and are hard enough with Casper being 120 miles away. These projects require the sponsor and/or builder to work very closely with the FHA staff. The office change would greatly hinder my company's ability to provide housing for Rawlins and this area.

The staff in Casper has been very receptive, efficient, and understanding of the unique problems facing Wyoming in light of the energy impact. Ralph Ham, John Cregor, Maurice Everaert, and Karleen Ratcliffe have shown a great deal of expertise in handling the Federal Housing projects being processed by them now. We communicate very effectively with them and can't over-emphasize the importance and the need that Rawlins' people and the State of Wyoming have for the FHA office in Casper.

Having Wyoming residents working in our Federal Housing office is very important. Because of their interest in our state and their accessibility to correct information, Wyoming government officials and workers can serve us better than any other people. People living out of the state just cannot realize the significant impact that the energy development is bringing to the state in the form of huge population increases, lack of sorely-needed housing projects, and the cost prohibitiveness of conventional financing—thus the need for more Federal Housing insured loans.

With our multi-family project in Rawlins—Heatherway Apartments—we have obtained inspections from the Casper Office in a timely manner once we have notified them. They have always tried their hardest to get to Rawlins when necessary. This timely manner has been slowing down lately, however, because of their understaffed office. The Casper office is now expected to do much more work than should be possible because of this understaffing. It is my recommendation that the Casper office not be eliminated and moved to Denver; but rather, the Casper office should have its staff increased because of the growing workload.

Energy Housing owns a tract of land south of Rawlins on which it has plans for several FHA projects in the multi-family area. We have been looking forward to working with the Casper staff in planning these projects. If the FHA insuring office is moved to Denver, these plans will have to be strongly reconsidered. Communication with the FHA office is extremely important, not only in the planning stages of projects such as these, but all through the project's life. Management reviews must continually be made by the government office and rental reviews must be conducted. These reviews would not be clearly understood by Denver because of their extended relationship with Wyoming. The continual communique with the management people in Casper will be very necessary to our project's well-being.

As a representative of the people of Wyoming, I certainly hope you will be able to express my feelings on the matter to the people in charge of such a move with the Casper Federal Housing Office.

Thank you for your time.

Sincerely,

JAY C. GRABOW.

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JACKSON, WYO.,
*October 25, 1977.*

Hon. PATRICIA HARRIS,
*Secretary, Dept. of Housing and Urban Development, Washington, D.C.*

DEAR MRS. HARRIS: We have been advised that the Dept. of Housing and Urban Development is considering closing their Casper Regional office in Casper, Wyoming.

As apartment developers, familiar with housing needs in Wyoming, such an action would tremendously hamper housing development in Wyoming. As you are aware, Wyoming is experiencing acute housing shortages in areas that have become impacted because of the energy crisis. The Casper Regional office is extremely sensitive to these housing needs, and if developers are required to channel their projects through Denver needless delays will result.

At a time when Wyoming is experiencing such rapid growth, it seems incomprehensible that such an action is even considered, when in effect it should be the contrary, with the Casper office staff being increased.

It can not be exaggerated, the drastic result this decision will leave on housing in Wyoming. Since the nation is depending on us for energy, it will indirectly effect that production.

We appeal to your office to keep the Casper Regional office in operation. In our opinion their performance is exemplary, and it would be a loss to the state and the nation if it were closed.

Sincerely,

M. E. MILES.

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CHEYENNE, WYO.,
*October 25, 1977.*

Senator MALCOLM WALLOP,
*Federal Building, Casper, Wyo.*

SENATOR WALLOP: In regards to the re-organization of HUD, I feel that our HUD office in Casper should remain open. We now have four apartment complexes in Wyoming being assisted by the Federal Housing Administration in Casper.

Mr. Bud Currah and Mrs. Dorothy Mills of the HUD office in Casper have been very beneficial in helping us with various projects such as maintaining our complexes and improving our buildings to benefit our tenants. Mr. Currah and Mrs. Mills keep us informed on all new rules of Federal Housing and have also had two work shops which have benefited us on government regulations.

We have one complex in Colorado and have not had as good a response to our problems and needs because of the work load that Federal Housing already has in Colorado.

We are also involved in several new projects to be constructed throughout Wyoming and we feel that it is essential to have the local state office in order to get these new projects started.

Sincerely,

M. V. FEDERER,
*President.*

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U.S. SENATE,
*Washington, D.C. October 31, 1977.*

Hon. PATRICA R. HARRIS,
*Secretary, Department of Housing and Urban Development, Seventh Street, N.W., Washington, D.C.*

DEAR SECRETARY HARRIS: In a letter of October 18, we asked you to provide detailed facts on the effects of and reasons for the proposed H.U.D. reorganization. In response we were offered a briefing on October 25 which representatives of many Senators and Congressmen attended. Unfortunately, that briefing failed to provide definitive answers to the five specific questions we had asked you to address, and it served to strengthen our belief that the H.U.D. reorganization must be stopped at once so that the Congress can evaluate it before its implementation.

As the briefing proceeded, it became quite clear that when H.U.D. formulated its reorganization plans, it based them on national totals, national averages, and the input of national organizations. In response to specific questions about Region VIII, we were given answers such as, "We have not broken down the figures by region," or "We do not know how much the processing time will be reduced in your region," or "We did not talk

to any contractors in Casper; we went to the National Association of Home Builders in Washington, D.C."

H.U.D. admits that Region VIII is unique. This is evidenced by the fact that only in Denver will the regional and area offices be colocated. During the briefing Assistant Secretary Medina cited this fact again and again to "prove" that H.U.D. is not trying to force the Rocky Mountain west into an east coast mold. When pressed for substantive data on the region, however, the Assistant Secretary could only say that it was not immediately available. Logic would indicate that if the reorganization was truly designed to fit the needs of different regions, that data would have been available long ago.

Because substantive regional data is not available, and because many individuals who deal with H.U.D. on a day-to-day basis are opposed to the reorganization, and because at this time it is not clear that the reorganization will save either time or money, and because it appears that adequate consideration was not given to regional differences and anomalies, we hereby ask that H.U.D. postpone implementation of the reorganization plan until such time as the Congress can solicit local responses and evaluate the proposals with complete data available.

Sincerely,

GEORGE MCGOVERN,
JAMES ABOUREZK,
JAKE GARN,
MILTON R. YOUNG,
MALCOLM WALLOP,
CLIFF HANSEN,
ORIN G. HATCH.

## SENATOR ABOUREZK DEFINES THE NATURAL GAS ISSUE

Mr. MCGOVERN. Mr. President, although some time has elapsed since the Senate ended its debate over natural gas pricing, that issue will be coming before House and Senate conferees in the next weeks. I think it would be appropriate for us to recall just what the fight in the Senate turned on, both with regard to the meaning of deregulation, and with regard to the close division of sides over the issue itself.

My colleague, JIM ABOUREZK, who was a leader in the fight to preserve regulation, has provided us with an excellent summary of the debate in an article appearing in the New York Times of October 9. I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATURAL GAS AND THE FILIBUSTER

(By JAMES ABOUREZK)

WASHINGTON.—Filibuster is an extended debate, generally in the United States Senate, which, because of its rules, allows unlimited debate for those who can count votes well enough to know that their side will lose should a vote be taken on an issue. Historically, filibusters have been the exclusive province of Southerners who have sought to prevent or to weaken civil rights legislation and, more recently, improvements in antitrust laws.

Why then would a northern Senator, supposedly in his party's majority, filibuster to prevent a vote on the deregulation of natural gas? This must be answered in light of the criticism lodged against use of the filibuster. When debate on the gas bill began, Senator Howard Metzenbaum, Democrat of Ohio, and I were told that even if the Senate did vote for deregulation, the House conference committee would stand firm against it—and, if it didn't, the President would veto the bill.

By stacking those arguments the gesture might, on the surface, appear to be Quixotic. The commitment to undertake a filibuster must be one of major proportions. In addition to the physical punishment, it is a severe emotional drain because it is designed to exhaust the other side in order to weaken its commitment to an all-out position. But exhaustion is not limited to the other side. Even one's own supporters become impatient at the imposition on their time, and at the chaos rained upon orderly procedures necessary to the Senate's normal operation.

In the natural-gas filibuster, the leadership, both Democratic and Republican, made every effort to direct our peers' anger against us. The issue itself was submerged in what eventually became a battle over Senate rules, traditions and personalities. One must wonder then what is at stake in legislation dealing with natural-gas pricing that requires a resort to such methods?

Five years ago, the Federal Power Commission, which regulates the sale of gas sold across state lines, had set a ceiling price for gas at the wellhead of 26 cents per 1,000 cubic feet.

In its most recent pricing decision, the F.P.C. raised the ceiling to $1.40 per 1,000 cubic feet—a staggering 500 percent increase. Yet during that period of rapid escalation in price, both production of natural gas and the amount of proved reserves actually decreased. Although industry arguments have always hammered at the concept that higher prices would produce more gas for the United States, behind the propaganda the claims were utterly false.

An early effort to deregulate natural-gas prices was stopped cold when the gas industry attempted to bribe a South Dakota Senator, Francis Case, in 1956. The bribe, and its attendant publicity, hampered further efforts until 1973, when the Senate defeated, 45 to 43, an amendment by James L. Buckley, then Republican of New York, that would have lifted the lid on gas prices.

Encouraged by promises from an F.P.C. appointed by President Nixon that deregulation was just around the corner, the industry made withholding of natural-gas reserves a basic part of its strategy in order to create artificial shortages and to save its reserves for the day deregulation would come.

Taking advantage of the air of crisis that surrounds the energy problem, Senators Lloyd Bentsen, Democrat of Texas, and James B. Pearson, Republican of Kansas, offered another deregulation amendment in 1975. The first Pearson-Bentsen bill passed the Senate, 50 to 41. The House refused to go along with total deregulation, but by then the industry had established its running game. This year, Senate passage of the bill was aided by fears from last winter's gas shortages, which, incidentally, were created by an unusually severe cold wave and inadequate gas-transmission facilities.

Natural gas is used to heat 60 percent of the homes in the United States. It is used almost exclusively to bake bread, as an ingredient for agricultural fertilizers, in oil refineries and throughout industry as a boiler fuel.

Deregulation—total removal of price ceilings—will have a direct cost to natural gas users of $160 billion by 1990, over and above even the Carter plan. What cannot be measured is the enormous cost to the economy of what ripples outward in the form of higher prices for food, for synthetics and industrial goods.

In my state, South Dakota, pensioners who receive only a couple of hundred dollars a month from the Social Security Administration would have difficulty buying food or paying rent after gas companies had exacted their tribute.

Deregulation would deal a more serious blow to our economy than did the drastic oil-price increases in 1973 and 1974. I seriously question whether we could recover from such a blow in the near future.

If such a staggering price increase could be shown to be of commensurate benefit to the public, perhaps the point could be reasonably debated. But as a Congressional Budget Office study has shown, total deregulation would increase our natural-gas production by no more than 5 percent.

Once the price of natural gas rises high enough, production of synthetic gas from coal becomes economically feasible. As firms with finite resources, oil and gas companies have a gigantic stake in extending their grip on energy resources to include synthetic fuels made from coal. Already, the Senate Finance Committee, under the chairmanship of Senator Russell B. Long, Democrat of Louisiana, is considering resurrecting the Rockefeller plan to establish a multibillion dollar Government fund that would allow the industry to "develop" synthetic fuels, among other things.

The price is too high for the public to pay.

Thus, even though the oil and gas interests have succeeded in convincing a slim majority of the Senate to legalize this plunder of the public's purse, I can see no valid reason to roll over and play dead for an industry that operates solely on the basis of greed.

Reliance on a small Congressional committee or on a Presidential veto is much too risky considering the amounts involved, especially since the oil and gas people are now talking about forcing on the conference committee a majority that supports deregulation.

Although President Carter has announced this year that he would veto a deregulation bill, last year he promised to support the industry's efforts to deregulate.

In light of all of this, Senator Metzenbaum and I agreed between ourselves to undergo what was necessary to delay a final vote on deregulation as long as we were able. It seemed to us that the discomfort to both our colleagues and ourselves was outweighed by the danger deregulation poses to the economy. Although the Carter Administration, which at first claimed to support our position, eventually teamed up with the Senate leadership to break the back of the filibuster, part of our goal has been accomplished. Without the extensive press coverage that came in response to the filibuster, the Senate would have quietly approved deregulation with no one the wiser until after the economic damage had been done.

While those on our side were accused of abusing the rules, the Administration and the leadership succeeded in actually brutalizing Senate procedures to bring about a final vote.

The puzzle went beyond the display of raw power exercised by Vice President Mondale and the majority leader, Robert C. Byrd of Virginia. It included a startling reversal of position by the Administration on the issue—a shock to nearly everyone involved. But that in itself may have accomplished something the gas and the oil industry had not anticipated: the stark realization by many Senate members of the injustice of both the industry's position on deregulation and of the tactics used to achieve it.

Defeating deregulation by filibuster was the end strategy, with the hope that public exposure of the issue would work to that end. We lost, 46 to 50, because during the 13-day debate not enough votes were switched to change the final outcome. But another unintended result has, I think, been realized: Senate liberals, who have been beaten down and who have felt a sense of defeat in past years because of the growing conservative trend in the Senate, came to life during the often bitter debate. One can now detect an uplifting of those whose spirits incline toward protection of a vulnerable and unorganized public.

The battleground in 1977 and for the years

to come will be centered on the basic issue of who actually runs the economy and in whose interest. Most Americans accept the characterizations of the energy problem that is brought to them by the oil industry. They may not accept the industry's conclusions, but they consider the issue too complicated to impose their own ideas.

At the same time, the industry uses other methods to create the same acquiescence in Congress. During consideration of the natural gas bill, oil lobbyists openly boasted to the press of their computerized bill-analysis services and other "capabilities" available outside the Senate chamber.

The incessant repetition of the theme that American life as we know it will end unless more and more money is funneled into the oil companies has paralyzed serious debate about real policy alternatives.

The natural-gas-pricing issue was the scene of the first battle in a fight that will determine whether our national energy policy is to be established by 20 oil companies in the sole interest of profit, or by 200 million American people in the interest of the nation as a whole.

## INVESTMENTS OVERSEAS AND UNEMPLOYMENT AT HOME

Mr. PELL. Mr. President, the impact on the U.S. economy of increasing imports in a wide range of materials and products is becoming a matter of increasing concern to more and more Americans.

The U.S. textile industry, our footwear industry, our steel industry and our electronics products industry, to name only a few, have been hard hit by rapidly increasing imports, with a staggering loss of jobs for American workers.

I think nearly everyone agrees international trade benefits both our Nation and our trading partners overseas if the international trade is conducted in a fair and equitable manner.

All too often, however, we find that the United States is conducting international trade according to the rules while with increasing frequency we find that other nations, while demanding access to our markets, resort to a wide variety of trade barriers to prevent American-made products from competing effectively in their own markets.

Spokesmen for the American labor movement have been in the forefront of those who protest against U.S. participation in one-sided international trading agreements, and they should protest because it is the American worker who stands to lose his job and his livelihood through unfair international trade practices.

One of the most effective and eloquent statements of labor's view on our international trade policies was delivered yesterday in Washington by William W. Winpisinger, International President of the International Association of Machinists and Aerospace Workers at the National Invester Relations Institute.

Mr. President, I am one who believes in the principles of free trade, but I believe Mr. Winpisinger's remarks should be read closely by everyone, and particularly by those who are ready to excuse any and all international trade transactions, agreements, and arrangements, in the name of free trade regardless of how unbalanced and unfair, or how damaging to American workers those transactions and agreements might be.

I ask unanimous consent that the text of Mr. Winpisinger's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

INVESTMENTS OVERSEAS AND UNEMPLOYMENT AT HOME

I welcome this opportunity to meet with you today because I mean to use it to tell you how working men and women are faring under this nation's trade, tariff, tax and foreign investment policies. The news I bring is not good. So far as the working people of America are concerned their jobs (and thus their stake in the private enterprise system) are being destroyed by policies of unrestricted overseas investment and trade. Though these policies are deeply embedded in both tradition and law, they are slowly but surely transforming the United States from a highly developed to an industrially underdeveloped nation.

If you think this is an overstatement, let me refer you to a definitive study of multinational corporations which was written a couple of years ago and which is entitled "Global Reach." In it the authors, Ron Muller and Richard Barnet, defined an underdeveloped country as "one that exports raw materials to maintain its balance of payments while it imports finished goods to maintain its standard of living."

That is a good description of what's happening to the United States. The 200 largest corporations that control two-thirds of this nation's productive capacity have been steadily transferring production and jobs to low-wage areas of the world. And because of unthinking acceptance and reverence for the economic dogmas of 19th century economists, our government has done absolutely nothing to prevent this internal subversion of the nation's industrial base. In fact, it has done just the opposite.

The wholesale export of American jobs and technology has been actively encouraged by tax, trade, tariff and investment policies that make it more profitable for a U.S. company to operate in Indonesia than in Illinois.

As a result, the United States must now export its grain, cotton, timber, wool, coal and other raw materials in order to pay for cameras, TV sets, radios, tools, shoes, clothing, glassware, textiles, typewriters and a host of other finished products. Between 1960 and 1970, the annual rate at which American capital was invested overseas rose by 400 percent. And this outflow continues. While the business community demands new and bigger investment tax breaks to encourage capital expansion, last year U.S. companies made 25 percent of their total capital investments overseas!

This investment is not only being made in places like Taiwan, Hong Kong, Malaysia, Singapore, Haiti and the Dominican Republic. After 30 years of cold war, during which American workers were conditioned to view Communism as the devil incarnate, American corporations are now rushing to build factories, complete with advanced American technology, behind the Iron Curtain. American capitalists can hardly wait to get at all that good, cheap, state-controlled Communist labor.

These corporations that are destroying America's industrial base, by closing down factories here and opening them overseas, include some of America's largest employers and defense contractors.

They include American Can, Chrysler, Firestone, General Foods, Honeywell, IT&T, Singer, Union Carbide, Warner-Lambert, General Electric and Westinghouse.

To visit one of America's major centers of industrial production, you no longer have to confine your travels to the United States. You can go to Taiwan and find American-owned firms producing pharmaceuticals, electrical equipment, textiles, toys, chemicals, machinery, food, clothing and scores of other products for American markets. Even a partial list of the companies that have gone to this dictator-controlled island, in order to exploit women and children with 30¢ an hour wages and 12-hour workdays, reads like a who's who of American industry. It includes such good old American brand names as Admiral, Bendix, RCA, Arrow Shirts, Mattel Toys, Dow Chemical, Dupont and Singer.

Anyone who doubts the connection between the export of capital and the export of jobs need only look at the extent to which the electronics work force has been decimated in recent years. Zenith is only the latest to give up on an attempt to compete against foreign, low-wage imports. Zenith was the last of the U.S.-based TV manufacturers, and I give them a lot of credit for trying. The Machinists Union represents many of the thousands of workers whose jobs are now going to be exported. And Zenith made it clear to us that they were not leaving because of any lack of productivity and workmanship. They found they simply could not compete against companies taking full advantage of every tax, tariff, trade and investment incentive that our government gives corporations who produce overseas for resale back into American markets. Zenith can save itself by leaving. As every economist knows capital is mobile but labor is not. Thus thousands of skilled workers in Sioux City, Chicago, Philadelphia and elsewhere will be reduced from economic assets to social liabilities.

Unfortunately the electronics industry is only the tip of a very large iceberg. Between 1962 and 1970, the ratio of exports to imports in rubber manufacturing went from a 100 percent surplus to a 10 percent deficit. In the apparel industry, the ratio of imports to sales has doubled in recent years. In one four-year period, from 1969 to 1973, a $22 billion rise in manufactured imports caused a direct decline of 346,000 jobs in U.S. factories.

Today 20 percent of all cars, 40 percent of all glassware, 60 percent of all sewing machines, calculators and cassettes, 95 percent of all radios and a high proportion of shoes, clothing and other manufactured goods sold in the United States are produced abroad, mostly by American-owned factories.

Unrestricted overseas investment is not only eroding the jobs of American workers but their rights under the law of the land. Specifically, I am referring to the right to bargain collectively.

American workers gained this right forty-two years ago when Congress recognized that the best way to give workers a stake in the free enterprise system was to establish a mechanism through which they could negotiate a fair share of the wealth produced by their labor. U.S.-based multinationals are systematically destroying that stake by exporting the jobs that workers need to support their families.

A further effect of unrestricted overseas investment is the draining away of the nation's technology for the greater profit of a relatively small number of multinational corporations.

Some years back the government solicited organized labor's support for trade policies which would make it even easier for other countries to sell in the United States. I might say, incidentally, that even since the end of World War II we have had the most liberal trade policies in the world. But this liberality has not been reciprocated. Other countries seem to be able to erect all kinds of barriers against our products. When workers questioned further liberalization, they were assured that American labor would not be undercut by coolie labor because of our

long lead in technology. A fact to note about this technology, which is now being sold out from under us, is that it results from research and education which are mainly supported by the taxes of the American people. Between two-thirds and three-fourths of all basic research and development is publicly funded. The engineers, scientists, craftsmen and other personnel that industry needs are all trained at public expense. What I am saying, in essence, is that America's technology has really been bought and paid for by the tax dollars of the American people. That includes the working people. Therefore, this technology really belongs to all of us. But multinational corporations have expropriated it to themselves and have been exporting it as fast as it's been developed. Moreover, in their pursuit of the fast buck, they've been selling off our technology at fire sale prices. During the 1960's Japan alone got $10 billion worth of America's industrial know-how, including advanced steel-making and aerospace technology, for which they paid only $1 billion. For 10 cents on the dollar, they got one of the greatest bargains in history.

When we go to Congress to protest corporate exploitation and profiteering on a resource that properly belongs to all of us, the experts come in from the other side and piously proclaim that there must always be a free flow of technology between nations. Unfortunately, during the debate on the latest trade bill passed in 1974, Congress bought this free flow of technology argument. In rejecting the Burke-Hartke bill, which labor supported, they left multinational corporations free to loot the nation's technological resources.

Some day our government may wake up and realize that technology is a commodity of commercial value with an investment cost that can be measured, a dollar value that can be computed and a clear market value for those who possess it. I agree that everyone benefits from the free flow of technology. Everybody would also benefit if Saudi Arabia gave away its oil and Japan gave away transistor radios. But the fact is they don't. Those who denounce labor for suggesting that the U.S. Government has a responsibility to its own work force conveniently overlook the fact that in other nations, whether industrialized or underdeveloped, the first priority is the protection and maintenance of job opportunities for their own work force.

In the 1974 trade legislation, Congress not only refused to consider even minimal safeguards against further export of technology and investment, but, at the urging of the business community, made it even easier and more attractive for American firms to move overseas. They did this by setting lower tariffs on goods produced in underdeveloped countries. This is, of course, an open invitation to American corporations to go to these underdeveloped countries and produce solely for sale in U.S. markets. Because so many are accepting this invitation, city after city in the United States is becoming littered with empty factories.

To the extent that overseas investment generates unemployment at home, it also contributes to the skyrocketing costs of social welfare. Because Americans cannot get jobs we are spending $40 billion a year for public assistance and $20 billion a year for unemployment benefits. If national policies were designed to discourage, rather than encourage the export of technology, capital investment and jobs, Americans would be cashing more paychecks and fewer welfare checks.

By creating high levels of unemployment here at home, multinational corporations have harmed America in still another way. Sociological studies in areas of high unemployment show that the rising tide of joblessness has been paralleled by rising levels of violence, family breakups, child abuse, crime, alcoholism and suicide.

Many of the problems that afflict our society have been caused or aggravated by companies that take every advantage America has to offer but which no longer identify themselves with America's future. A few years ago, a vice president of the Ford Motor Company stated, and I quote, "We . . . look at a world map without any boundaries. We don't consider ourselves basically an American company. We are a multinational company." If the Ford Motor Company, doesn't consider itself American, who does? Certainly not the president of the Motorola Corporation when he was asked why he was abandoning plants in the United States while opening them in South Korea. He said, and again I quote, "We can train Korean girls to do the same job as American workers. They are hungrier and more motivated. They will work harder for less."

Of course these hungry Korean girls can't afford to buy the products they are making. Those products are aimed straight at the American market. Forgotten is the fact that as more and more jobs are exported, fewer and fewer consumers will be left to buy Motorolas or Fords or anything else in the United States. You simply can't go on milking a cow without feeding it indefinitely.

But instead of recognizing this elementary fact of economic life most of our political, business and academic leaders seem to believe that the fault lies not in our trade, tax, tariff and foreign investment policies but in our work force.

Fortunately a few Congressmen, especially in areas that have been hardest hit, are beginning to question the validity of 19th century economic doctrines in a 20th century world.

One of these is Congressman Joseph Gaydos of Pennsylvania. As he so aptly pointed out in a speech to the House of Representatives, "The unschooled girls of Taiwan can do just as well assembling complex TV components as the high school graduates of New Jersey. The untrained workers of Africa and Asia can be taught to produce complex products ranging from tiny transistors to giant turbines, as readily as the skilled workers of Pennsylvania and the West Coast. The depressed inhabitants of the most squalid slums of the Far East can be taught to make speciality steel products just as well as the experienced workers of Pittsburgh."

The point is we are no longer talking about unskilled jobs in low wage industries. We may have started out by exporting the jobs of shoe, textile, leather and electronic workers. But now we are losing out in high technology industries. I can best illustrate the point by describing an example that directly affects members of my own union. We happen to be the largest union of aerospace workers in the world. In addition to those employed in the manufacture of the big commercial and military planes, thousands of our members produce light aircraft for companies like Beech, Cessna and Piper. For many years Brazil was the number one importer of these light planes. But then, some years ago, the Brazilian Government decided to create more jobs for their own work force by developing their own light aircraft industry. They did this in two steps. First they levied prohibitive taxes on the importation of light planes. Second, since they had no light aircraft industry of their own, they invited an American manufacturer, Piper, to come down there and produce with Brazilian workers. As a result Brazil is not only taking care of its own markets, with the help of American capital and technology, but is now taking over traditionally American markets throughout the rest of South America. And to add insult to injury they are even selling Brazilian-made planes back into the United States.

While more Brazilians now have jobs, more Americans have joined the ranks of the unemployed. We can chalk up one more casualty to our government's devotion to 19th century doctrines of free trade. We contend there is nothing free about trade when other countries close their markets to us, import our industry, and then demand open access to our markets. There is nothing free about trade in which Brazil can sell planes to us, but we cannot sell planes to Brazil.

The proponents of our free and easy trade, tax, tariff and investment policies admit that while these policies may hurt workers, they benefit consumers. And this is one of the biggest fallacies of all. In the first place workers *are* consumers. But more significantly, the lower costs of foreign production are not necessarily reflected in the market place. They are more likely to be diverted into bigger profits for the manufacturers and middlemen. A few years ago, for example, the Washington Post carried a report on two pairs of shoes. They were identical in every way except that one pair was made in Italy and one pair in Mississippi. The labor cost of the Italian shoes was less than half that of the Mississippi shoes. And God knows in Mississippi wages are low enough. But in the stores, the retail price was exactly the same. Since the difference went to higher profit margins, the wholesalers and retailers quite naturally pushed the Italian-made shoes over the American-made brand.

The proponents of our present policies also claim that when American workers are hurt, the answer is not to restrict overseas investment, but to compensate such workers with what they call "adjustment assistance." This is a form of supplemental unemployment benefits which neither adjusts nor assists. After this concept was adopted, in the early 1960's, we took case after case to the Tariff Commission. But it took us seven years to finally get them to agree that a group of our members had lost their jobs not because of an act of God but because of an act of Congress. Our experience since then has convinced us that adjustment assistance is one of the biggest frauds ever perpetrated on the American work force.

Finally, the advocates of unrestrained overseas investment say it really doesn't matter if we lose our manufacturing base because we'll become what economists call a "rentier" economy. That means most people will live off overseas investments while the rest go into service trades. Quite frankly, it's my opinion that anyone who believes this also believes in the tooth fairy. The fact is that 60% of all corporate stocks and virtually all corporate bonds are owned by a small and wealthy elite consisting of no more than 4.4% of the population.

That 4.4% can live off investments. But the rest of us have to work for a living. And because we do, policies that make it more profitable for U.S. firms to operate in Malaysia than in Maryland, can only end in tragedy for the work force and thus for the nation.

We are already well down a perilous path. Chronic unemployment has been growing decade by decade. In the 1950's anything over a 4% rate of joblessness was considered unacceptable. By the end of the 1960's it was 5%. For the past few years it has been ranging between 7 and 8% and there are signs it is going to get worse.

In demanding that this nation's trade, tariff, tax and investment policies be brought in line with economic realities, the labor movement is not seeking a retreat to economic isolationism. We only ask that we be allowed to play by the same rules that others have adopted. If other countries want to sell to us, that's fine. But they should be willing to let us sell to them. If American corporations want to go to Taiwan and South Korea, fine. But they should not be allowed to take advantage of incentives that have been set up to help so-called underdeveloped nations. They should not be permitted to take our technology, largely developed at the expense of American tax-

payers, out of the country and then use it to bat the American work force into poverty. As long as a shortage of investment capital exists in the U.S., they should not be permitted to make 25% of all their new investments overseas.

In conclusion let me say that some of you may be included in that fortunate 4.4% who can live off their investments. If you may think you don't have to worry about what happens to the American work force, at least not until the overseas holdings of American companies are expropriated. But let me suggest that you look around at the rest of the world. Look at those countries in which a fortunate few at the top live in the lap of luxury while the overwhelming majority suffer the squalor of horrendous poverty. These are the countries in which the long term outlook for investment is most unfavorable. These are the countries in which terrorism and Communism can barely be held at bay by even the most brutal repression. A nation cannot build nor maintain a stable society upon a foundation of "trickle down" economics. Prosperity must begin with that overwhelming majority that works for wages. To sum it up investors cannot prosper unless America prospers. And America cannot prosper unless working people prosper.

## SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. ROBERT C. BYRD. Mr. President, the first vote will occur tomorrow morning at 9:55 a.m.

## ORDER FOR RECOGNITION OF SENATOR DOLE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow morning after Mr. PROXMIRE has been recognized under the previous order Mr. DOLE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS UNTIL 8:55 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8:55 a.m. tomorrow.

The motion was agreed to; and at 6:55 p.m., the Senate recessed until Friday, November 4, 1977, at 8:55 a.m.

## NOMINATIONS

Executive nominations received by the Senate November 3, 1977:

OFFICE OF RAIL PUBLIC COUNSEL

Howard A. Heffron, of Maryland, to be Director of the Office of Rail Public Counsel for a term of 4 years (new position).

# HOUSE OF REPRESENTATIVES—*Thursday, November 3, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Because Thou art my God, Thy gentle spirit shall lead me into the way of life.*—Psalms 143: 10.

O God, our Father, we thank You for the gift of a new day fresh from Your hand and we pray that You will help us to use it to live cleanly, to labor industriously, to love wisely, and to keep our spirits lifted to high levels of thought. May we have the strength to overcome our difficulties, the courage to carry our responsibilities with honor and the faith to live with loyal hearts.

Sustain us in our efforts to make a better world and to bring good will to all Your children. In the midst of the day's work assure us of Your presence and let the light of Your wisdom fall upon our pathway. Amen.

## CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, under clause 1, rule I of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. MONTGOMERY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 735]

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|---|---|---|
| Ambro | Conable | Giaimo |
| Andrews, N.C. | Conyers | Gibbons |
| Archer | Corcoran | Goldwater |
| Armstrong | Cornwell | Guyer |
| Ashley | Crane | Hagedorn |
| Badillo | D'Amours | Hall |
| Beard, Tenn. | Dent | Harris |
| Bedell | Diggs | Harsha |
| Beilenson | Dodd | Heckler |
| Bolling | Drinan | Holland |
| Brooks | Edwards, Ala. | Holt |
| Brown, Calif. | Edwards, Okla. | Huckaby |
| Burke, Mass. | Fithian | Ireland |
| Burton, John | Ford, Mich. | Jacobs |
| Chappell | Fraser | Jones, Okla. |
| Chisholm | Gammage | Jones, Tenn. |
| Cochran | Gaydos | Koch |
| Collins, Tex. | Gephardt | Krueger |
| Lloyd, Calif. | Nolan | Sikes |
| Long, La. | Pike | Solarz |
| Lott | Preyer | Stockman |
| McClory | Pursell | Teague |
| McCloskey | Quie | Thompson |
| McCormack | Rhodes | Tucker |
| McDonald | Roberts | Udall |
| McKay | Rogers | Vander Jagt |
| McKinney | Roncalio | Whalen |
| Marlenee | Rose | White |
| Mathis | Rostenkowski | Wilson, Tex. |
| Mazzoli | Rousselot | Wolff |
| Mollohan | Russo | Yatron |
| Moss | Satterfield | Young, Tex. |
| Murphy, Ill. | Scheuer | |
| Nichols | Shuster | |

The SPEAKER. On this rollcall 334 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 9512. An act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that act; and

H.J. Res. 621. Joint resolution approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1339) entitled "An act to authorize appropriations to the Energy Research and Development Administration for national defense programs for the fiscal years 1977 and 1978, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1863) entitled "An act to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1184. An act to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2501. An act to provide for the amendment of the public survey records to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold Tract within the Medicine Bow National Forest, Wyoming; and

H.R. 9794. An act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1678) entitled "An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. EASTLAND, Mr. ALLEN, Mr. STONE, Mr. LEAHY, Mr. DOLE, Mr. HAYAKAWA, and Mr. LUGAR to be the conferees on the part of the Senate.